

Dr. Ambedkar at the Round Table Conferences

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7

COMMITTEE OF THE WHOLE CONFERENCE

Comments on the Report of Sub-Committee No. VII (Defence)—16th January 1931

Dr. Ambedkar: What I want to do is to move an amendment to clause (2) of

paragraph 4 of this Report to the following effect, that immediate steps be taken to see that recruitment to the Indian Army is thrown open to all subjects of His Majesty, including the depressed classes, consistently with consideration of efficiency and the possession of the necessary qualifications. I do not merely wish to have this matter recorded; I wish to move it as a substantive amendment, so that the sense of the House may be taken on it. My amendment is very simple one: it seeks to remove all discriminations between the different classes of His Majesty's subjects to enter Military Service. No doubt I move the amendment primarily with a view to protecting the specific rights of the depressed classes, but in doing so I am not asking the Committee to confer any favour, I am asking the Committee to see us realise in practice the principle recognised in the Government of India Act, that no subject of His Majesty shall be debarred from entering any Public Service by reason of his caste, creed or colour. In doing so, therefore, I do not think I am asking for any special favour.

I may point out to you, Sir, this amendment is on the lines adopted by the Service Committee. If you will refer, Sir, to the Report of Service Committee appointed by this Committee, you will find that the Service Committee did make a serious effort to see that all subjects of His Majesty had a fair and adequate chance in Public Services of the country, and that they not only enunciated certain fundamental rights protecting subjects of His Majesty from being debarred from entering any Public Service, but they went; out of their way to make special recommendations, mentioning certain specific communities, such as the Anglo-Indians and the Depressed Classes.

But, Sir, this amendment is not merely in the interests of the depressed classes. I submit, it is also in the interests of all communities and subjects of His Majesty. I think, Sir, that it is a great public danger that any community in India should be allowed to monopolise any services in the country. I say it is a great public danger, because it not only excites a sense of superiority in these particular communities which have been placed in the position of advantage, but it also jeopardises the welfare of the people by making them dependent upon the protection afforded to them by certain specific communities, I therefore submit that as we are enunciating a new constitution for India, we ought to begin with a system which will permit every member of His Majesty's community to play such part as he is capable of by reason of his fitness in any Public Service of the country And, if I may say so, Sir, the amendment which I am moving is only a logical consequence of the principle enunciated in this paragraph itself, because if you refer to sub-clause 1 of clause 4 you will see this :

"The Sub-Committee consider that with the Government of the new political

structure in India, the defence of India must to an increasing extent, be the concern of the Indian people. and not of the British exetent be the concern of the Indian people and not of the British Government."

Now Sir, if that. sentence has any leaning, that, the defence of, India should be to an increasing extent the concern of all the Indian people, it must be the concern of Indian people and not the concern of any particular community.

I therefore submit, that this House do accept the amendment which. I am proposing.

Dr.Moonie : With regard to Dr.Ambedkar's proposal that recruitment should be thrown open, to all classes, I entirely agree with him provided the standard of efficiency is maintained.

Dr. Ambedkar: .That is my amendment; I say that it shall be consistent With efficiency.

Sir Tejbahadur Sapru : I also associate myself with Dr. Ambedkar.

Mr. Basu: Mr. Chairman, I raise a point of order. This amendment over-laps a portion of the Department of the Services Committee which says, in clause 5(4) regarding membership of any Committee that castes, creed or race shall not be a ground for promotion or suppression in any public services.

Dr.Ambedkar: We excluded the Army for our consideration.

Mr. Thomas : Mr. Chairman, I do not think there is any need for the amendment. The paragraph was deliberately put in. "The Sub-Committee consider that with the development of the new political structure in India the defence of India must to an increasing extent be the concern of the Indian people and not of the British Government alone." That does not say that the defence of India must be the special concern of any section in India. It was deliberately framed to cover that, and the word "Indianisation" **is applicable.**

Dr. Ambedkar : Yes. but I mean there may be Indianisation without there being the opportunity of men to all communities to enter Public Service. Indianisation may still mean the monopoly of some communities.

Chairman : The position is that, it will be noted.

Second Sitting-7th January 1931

Dr. Ambedkar : There is one thing which it seems to me necessary that this Sub-Committee should consider, whether this process of Indianisation should not be accompanied by some distinction in the matter of pay, pensions and other privileges of Indians as against Europeans in the Civil Service of the future. I think that is a point which this Sub-Committee must necessarily consider. I should therefore like to add to this paragraph " Should the Indian element be on. a par with the European element in the matter of pay,

pensions and other privileges ".

Chairman: We will bear that in mind.

Then " (4) Who should be the recruiting authority for the recruitment of All-India Services under the new Constitution ? "

Sir Chimanolal Setalvad: You will have to add there the question of control, who shall recruit and who shall control.

Chairman: We will leave that for the moment.

Then " (5) Recommendations concerning the Civil Branch of the Indian Medical Service ". That is quite at large. We can make what recommendations we like there.

Then " (6) The desirability of recommending that the question as to what conditions may be required to attract and retain future recruits of the right type should be referred to a technical Committee or Committees ". It occurred to me that there are so many of these points, for instance, with regard to rates of pay, which we have to consider. You do not want to pay more than you need; on the other hand it is bad economy to pay people inadequate salaries when you do not get the right type of man. That is obvious.

The point made as to the question of control seems to me to involve highly technical matters, calling for expert knowledge, so that I doubt whether this Sub-Committee is qualified to express any final opinion. — I know I am not. I therefore purposely drafted item (6) of the agenda so that we might consider whether we ought not to say that there should be Commissions set up to determine this question.

(Terms of reference to this Committee were : " the relation of services to the new political structure ", which meant to include the ratio of British recruitment in the All-India Services.)

Can any of you say — I cannot — what rate of pay is necessary to attract the right type of people ? Is anybody prepared to say that he knows ? Or can anybody formulate what precise regulations should be made regarding control, if we are to cope with that topic ?

Sir Chimanolal Setalvad: I think the broad principle with regard to control should be dealt with here, namely, whether it should rest with the Secretary of State as at present or devolve upon the Government of India.

Dr. Ambedkar : The distinction of remuneration as between Europeans and Indians is a broad question which this Sub-Committee ought to decide. The particular principle whether the two elements in the Service should be treated on a par is certainly one for this Sub-Committee.

Sir Provash Chunder Mitter: If you want to have an All-India Service it is necessary to remember that conditions in the provinces are not the same. Unless you take evidence I cannot see how even broad generalisations can

be made on the question of attracting the best men for the Services throughout India.

Sir A. P. Patro: We had a Committee to investigate whether there should be any retrenchment in the Services. It was a very independent Committee, but the result at which it arrived was that the rates of salaries should actually be increased in some respects. I think that this question should be considered by an independent Committee. Some of us, while strongly in favour of Indianisation, feel that in the interests of our own country there should be greater economy in the matter of the salaries of the Indian officers, but at the same time there should be sufficient attraction to such officers, enabling them to maintain their position and prestige in the country, and preserving them from temptation. As to what scale is adequate to keep the best men in the Service, this is not a matter which can be determined offhand, it is one which will require very careful consideration. These are vital questions affecting the efficiency of the Service. My respectful submission is that we should not burden ourselves with details at present.

Sir Chimanlal Setalvad: With regard to control, I am afraid my remark was not quite understood. I only want to have the large principle settled, whether the control should be in Whitehall or in India.

Dr. Ambedkar : I should like to draw your attention to the report of the Ceylon Commission, which recommended the broad principle that there should be differentiation of salaries between the native of Ceylon and others.

Chairman: It may meet the point if we had at the end of Item (6) of the agenda, " and if so, whether any definite recommendation should be made for the guidance of such Committees ".

Lord Zetland: The question which Sir Chimanlal Setalvad wishes to discuss will come up on Item (4). The control goes with the recruiting authority.

Chairman: We can add to Item (4) " and what general recommendations should be made as to control ". I agree with Lord Zetland that the one is a corollary of the other. The control goes with the recruiting authority. Will you, therefore, add to Item (6), in order to meet **Dr. Ambedkar's** point, " and is so, whether any definite recommendations should be made for the guidance of such Committees"?

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Chairman: We come now to Item (3) : " Should recruitment on an All-India basis continue for any of the following Services : (a) Indian Civil Service, (b) Indian Police Service, (c) Indian Forest Service, (d) Irrigation Branch of the Indian Service of Engineers." I pause here, and suggest that I rather gather the sense of the Committee to be " Yes " to (a), " Yes " to (b), and " No " to (c). May I take it that the answer is " Yes " to (a) and (b) ?

Mr. Shiva Rao: I think that all these Services should be provincialised. I do not think it would be satisfactory to work these Services on an All-India basis, and at the same time ensure a proper relationship between the Services and the Ministry.

Mr. Basu: The Indian Civil Service is a general service that is recruited, and there are bifurcations and trifurcations. After a period in the general service, some members, for example, go to Customs, some take the Judicial line and become Judges, and others remain in the Executive and Revenue Departments. Are we going to have a service which is not a specialised service, such as we ought to have from the very start ? It may be, as I pointed out in my general remarks, that with the new Constitution it will be necessary to recast the categories of services, instead of having one service, namely, the I.C.S. The I.C.S. has done good work in the past, but it is to some extent an anachronism, and may be more so within a short time. The question is whether by this kind of nomenclature we shall be tending to continue and perpetuate a state of things which does not fit in with the requirements of the present day.

Dr. Ambedkar: This question has to be considered from more than one point of view. There is, first of all, the point of view of Provincial autonomy. We are framing a Constitution in which we propose to give as large a degree of Provincial autonomy to the provinces as possible, and it seems to me that no province can be deemed to have Provincial autonomy if it has not the right to regulate the Civil Service that is going to work in its area. There is another and very important point of view, namely, finance. When we have an All-India Civil Service we have a fixed scale of pay. Salaries, remunerations, and other privileges are on a scale which is somewhat remote from what would be obtainable in the various provinces. A Civil Service that will not be costly to Bombay or Bengal may be costly to smaller and poorer provinces, like Assam, Sind, the North-West Frontier Province, and Punjab, and it may be that these provinces will feel themselves satisfied with a little less efficient service than the All-India basis would give them. Having regard to finance at their command, they may regard the brains and efficiency obtainable as quite sufficient for their purpose. Finally, I agree with Mr. Basu regard to specialisation. I do not understand how the passing of an examination like that of the I.C.S. can give any man the competence to serve in certain specialised Department. A man was passed his I.C.S. examination, with mathematics as a special subject, may be placed in the Department of Agriculture or in that of Indian currency. We ought to have a Service which not merely assures a certain standard of education in those who participate, but also allow for a certain degree of specialisation. It is necessary, in my

view, that the All-India character of some of these Services should now cease, and the provinces should be allowed liberty to cut their coats according to their cloth.

Sir A. P. Patro : The objection which has been raised by *Dr. Ambedkar* is a very relevant one.

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Chairman : Mr. Basu's point of view on *Dr. Ambedkar's* remarks should clearly be considered. We should be careful to make it plain that in recommending recruitment for the I.C.S. we do not regard the I.C.S. as perfect, good though it is, or as a thing which must be continued for ever on exactly the same basis. It will be necessary to do whatever is possible to remould and recast it. Those of *Dr. Ambedkar's* school of thought suggest that the All-India Services should be done away with and small Provincial Services set up in their stead.

Dr. Ambedkar: I think that I should make my position clear. I hold, with the rest of the members of this Committee, that it is very necessary to have a European element in the Service, but I do not share the view of the noble Lord, Lord Zetland, when he said that if you make the Service provincial it will dry up the source of recruitment.

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Chairman: The suggestion is that we should fix 1939, or any other date you like. There is no magic in a date. The suggestion is that we should fix some date, and make it plain that thereafter it is a matter for the Government of India to consider. That is the suggestion which I make in order to try to meet everybody.

Dr. Ambedkar: My view is that your recommendations should be applicable only to the Indian Civil Service and the Indian Police Service.

Chairman: I would agree to that, and I will make that plain.

Third Sitting—8th January 1931

Dr. Ambedkar : Sir, I must say that I do not hold a very strong opinion on the question as to whether there should be a Committee appointed or not, in order to give guidance to the future Government of India, but there are two matters upon which I do hold a very strong opinion. The first is that I think the time has arrived when instead of having one common Indian Civil Service to men of all departments, we should have hereafter some provision made for the specialisation of services in order that efficiency may be more greatly secured than it is now. I am not going to say anything as regards the capacity of the Indian Civil Service, because I think that it is generally admitted that it is a capable Civil Service, but, notwithstanding that, I do maintain that the kind

of training that one gets in the Indian Civil Service is not sufficient for the discharge of certain duties in certain technical, or otherwise specialised, departments. Consequently it is necessary, that some reorganisation should take place in the Indian Civil Service in order that we may get greater efficiency in the Service. That is one thing upon which I feel very strongly. The second point upon which I feel even more strongly is that, although we are all agreed that there must be Indianisation in the Indian Civil Service and that there must be more rapid Indianisation in the Indian Civil Service than has been contemplated hitherto my submission to the Committee is that, looking at the problem from the standpoint of the Indian tax-payer, it is far more necessary that this Indianisation should not merely be a change in the personnel of the Service, but the Indianisation must be accompanied by some lowering of the burden on the Indian tax-payer. There must be some differentiation in the remuneration, the salary, the pay and the pensions, and other privileges of the Indian element of the Indian Civil Service as compared with what is granted to the European element of the Indian Civil Service. In this connection I should like to draw the attention of the Committee to the recommendations made by the Donoughmore Commission for the Constitution of Ceylon. At page 133, they recommend that the Ceylon Government should hereafter appoint a Salaries Commission, and with regard to that Salaries Commission they make a definite recommendation that there shall be a differentiation in the remuneration of the European element in the Ceylon Civil Service and the Ceylonese element in the Ceylon Civil Service. This is how they justify it : " On the merits of the case it is clear that there is no logical justification for remunerating both classes of public servants on the same basis. In one class are a body of men exiled from the temperate climate which is their birth-right and posted in a tropical country thousands of miles from their homes; a country in which it is impossible for them to bring up their children and from which it is essential for the sake of their own health that they should proceed on leave of absence at regular intervals ; a country in whose service they are compelled, not only to face all the difficulties involved in the maintenance of dual establishments, the risks to their health and the personal sacrifice of family ties, but also to preserve at considerable cost a standard of living and hospitality in keeping with their own traditions and those of a Service which, for over 125 years, has represented a great Imperial Power. Side by side with them are men living and working in their native country, with their homes at hand, subjected to none of the climatic difficulties and to only a part of the financial burden imposed on their European colleagues. It is obvious that the former class of public servants must be paid a salary sufficient to compensate them, over and above the

actual value of the work performed, for the personal risks and sacrifices involved in its performance. There can be no logical justification for extending to the latter the compensation necessarily paid to the former." I think that these observations apply with equal force to conditions in India. If this Subcommittee accepts the two points that I am placing before them, namely, the necessity for diversification in the Indian Civil Service, and also the necessity for differentiation in the remuneration between the two elements in the Indian Civil Service, then I think that it is a necessary corollary that there ought to be somebody set up to advise the Government of India to carry into effect these recommendations. It is for those reasons that I support the suggestion that, after the new Constitution is brought into effect, the Government of India should be empowered to set up such a Committee as is recommended in head 6.

Chairman: May I say for the guidance of the Sub-Committee that, as our terms of reference are the relations of the Services to the new political structures, obviously we cannot go at great length into the question of salaries ? At present there is a differentiation in the pay of officials based upon what is called non-Asiatic domicile. I expect that you all know about this. The difference comes to this that those who have a non-Asiatic domicile get what is called overseas pay, which is an addition of about £ 300.

Dr. Ambedkar: I think that that really hardly touches the point. You can create differentiation by adding something to the European salary. That is no relief to the Indian.

Sir A. P. Patro : I think that the reasons given by Dr. Ambedkar necessitate a reply in the affirmative to the two questions propounded in head 6. I think that he has very strongly put the case of enquiry in the matter of Indianisation. The reference as it goes is, what conditions will be required to attract the right recruits ? That is a very important thing. If the Committee thinks that the present conditions should be altered and changed in order to attract the best men, then the Committee will consider that aspect of the matter, and, therefore, it will be necessary to have a Committee. The other feature is, that it is said that the future Government of India should have the right of looking into the matter, and considering what would be necessary according to the circumstances which may arise then, I fear that there is a notion that the future Government of India will be so radically altered that the Ministers would do everything that they could to revolutionise the existing system. The sooner that we forget that, the better for us, and then we would be more reasonable in our conception of these conditions of service.

After all, we know there is to be only a limited responsibility in the Centre. The responsibility of Ministers will be restricted. Therefore we should consider

from past experience that there should be some guidance to the future Government of India, which must not be allowed to start with a blank cheque. It is purely a business matter, and my reply would be in the affirmative to both parts of Item No. 6.

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Dr. Ambedkar: I would point out a difficulty that will arise in the question of fundamental rights in the words which you are trying to introduce. The point is this. You are giving the Public Services a direction to recruit the Services so as to give due and adequate representation— whatever the words are. That means this: the Commission will have the right to choose between the different communities in order to make up the quota of the community which does not otherwise get into the Services. That means that they would have to exclude members of other communities in order to make good the claim of fair and adequate representation of other communities which have not hitherto been recruited in the Public Service and if you have this fundamental right given to every individual of every community, that certainly would embarrass the Public Services Commission, because a person who had a fundamental right of this sort may say: You are prejudicing me by preferring some other member of some other community. There seems to me to be the difficulty.

Sir Chimanlal Setalvad: May I point out that this enunciation of fundamental rights, about there being no disability by reason of religion, caste, or creed, is merely repeating the proclamation of Queen Victoria when the Crown took over the Government of India. It was incorporated in the proclamation then made.

Raja Narendra Nath: It does not solve the practical difficulty.

Chairman: May I suggest that as it seems to be that the fundamental right is already there, is it necessary to repeat the fundamental rights ? Would the Sub-Committee be satisfied if we accepted in our report the first two propositions which Sir Chimanlal has read, and not put in the declaration as to fundamental rights ?

Dr. Ambedkar: I would point out that we have not only to guard against the Public Services Commission being influenced by the local Government in the matter of making appointments. It seems to me that we have also to guard against the Public Services Commission abusing its own powers. I feel somewhat strongly on this point. The Public Services Commission is bound to be very limited in its personnel; we therefore cannot provide that the Public Services Commission in its personnel shall represent the different communities in the country. The Public Services Commission will have to be drawn from some communities, and human nature being as it is I fear the

Public Services Commission might abuse its own powers.

Mr. Mody : What will be the remedy ?

Dr. Ambedkar: The remedy would be that the Legislative Council should have the power to pass a resolution of want of confidence in the Public Service Commission, just as, for instance-

Sir Chimanlal Setalvad : That would defeat the whole object.

Dr. Ambedkar: If this means is not desirable, I shall welcome some other means and some other method on this point, but I do feel very strongly that it is no use having a Public Services Commission which may be interested in their own community and not in others.

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Sir Chimanlal Setalvad : ..Having laid it down that the Public Services Commission shall secure a fair representation to the various communities, we would give power to the Governor, in his Instrument of Instructions, to see that such fair representation was secured.

Dr. Ambedkar: You might provide in clause 2 . that this should be subject to such directions as may be given them by the Governor.

Sir Chimanlal Setalvad: That is giving too much power to the Governor. All you want to secure is a fair representation for the various communities; you want to see that the fair representation which we have provided that the Public Services Commission shall allot is in fact secured.

Mr. Zafrullah Khan: How will the Governor see to that ?

Chairman: Major Stanley has been good enough to make this suggestion, which may be a *via media*. He suggests some words to this effect, that at the end of clause 2 we might insert: " This part of the duty of the Public Services Commissions shall be subject in the case of the Provincial Public Services Commissions to the periodic review of the Governor, and, in the case of the Central Public Services Commission, of the Governor-General, who shall be empowered to issue any necessary instructions to secure the desired result."

Dr. Ambedkar: Yes.

Sir Chimanlal Setalvad: That is all right ; I am prepared to accept that.

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Mr. Shiva Rao: I want to suggest that we say that every member of the Public Services Commissions shall hold office during his good behaviour, and that the Chairman and other members of the Public Services Commissions shall not be removed from office except by the Governor-General on an address by the Central Legislature, and in the case of the Provincial Public Services Commissions by the Governor of the Province concerned on an address by the Provincial Legislature.

Chairman: Mr. Shiva Rao has suggested a new clause, and he puts the point quite clearly. We do not tie ourselves to language but the substance of it

is that we should state as a new clause that office is to be held during good behaviour and that a member of the Public Services Commissions, whether Chairman or an ordinary member, is to be removable on an address of the Legislature to the Governor or Governor-General as the case may be. Let us put that.

Dr. Ambedkar : I support that.

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Dr. Ambedkar: The position taken by Mr. Shiva Rao is that discretion in the matter of removal of members of the Public Services Commissions is to be vested entirely in the Governor or Governor-General. The fact the Legislature has passed a resolution by a majority will not ipso facto lead to removal, but the Governor or Governor-General will consider whether action should be taken or not.

Raja Narendra Nath : I would not allow the Legislature to interfere at all in respect of appointments.

Dr. Ambedkar : A man may be corrupt just as judges may be corrupt. Should there be no remedy at all? Should there be not way of removing such person ? We are removing patronage for the Ministers because we feel they may be corrupt, but the Public Service Commissions may be corrupt, and if we have no chance of removing any of their members what will the position be?

Dr. Shafa'at Ahmad Khan: Dr. Ambedkar has admitted that a member of a Public Services Commission can be removed by the Governor, and if that is so what is the use of the address by the House ? It is very dangerous to have a Legislative body interfering in executive matters. We must keep the deliberative function of the Legislatures completely apart from the function of the Executive, and if we mix the two functions in a matter of this kind, where thousands of appointments may be at stake, I think we shall Deinviting trouble and making the whole of the regulations regarding the Public Services Commissions completely useless and utterly futile.

Chairman: Would it be in accordance with the desire of the Subcommittee —I think the criticism made is rather cogent — that we should insert a clause to the effect that any member of a Public Services Commission holds office during good behaviour and is removable by the Governor or Governor-General as the case may be? (Agreed).

Sir Provash Chunder Mitter : So long as the Legislature is not specifically brought in, I am satisfied.

Chairman: Would that further amendment be in accordance with the wishes of the Sub-Committee? (Agreed). We shall consider it at the report stage; we are considering it provisionally now. Now we get to Colonel Gidney's point.

Dr. Ambedkar: Before you proceed to Colonel Gidney's proposal ..when the draft was first read but there was a clause stating that a member of a Public Services Commission after he had ceased to hold office as a member of such a Commission should not be eligible for service under the Crown.

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Chairman: At present I want to put before you what the suggestion is. Will you therefore please strike out the words " be placed under Provincial management ", and insert instead the words " no longer be recruited on an All-India basis " ?

" and we do not think it necessary to make any special recommendation with regard to these two services.

"we recommend that recruitment on an All-India basis should continue for the Indian Civil Service and the Indian Police Service (Mr. Shiva Rao dissents—) " I do not know whether he is alone or whether there is anyone with him.

Dr. Ambedkar: My resolution is that except for the European element in these two Services, the rest should be provincialised.

Chairman: I think that will have to be separately put in. "(Mr. Shiva Rao dissent from this conclusion, and would desire that all Services be provincialised forthwith)." I suggest that we add here this : " some members are of opinion that recruitment for judicial offices should no longer be made from the Indian Civil Service."

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Dr. Ambedkar: I am in favour of both the Services being on a Provincial basis, but I am prepared to make an exception in favour of the European element in those two Services.

Mr. Zafrullah Khan: I agree with Dr. Ambedkar.

Sardar Sampuran Singh: I endorse the same view.

Chairman: I am much obliged. That will certainly go in.

Dr. Ambedkar: On page 2, in the paragraph beginning " No doubt such government if it requires ", and so on, you have mentioned the question of the reorganisation and readjustment of the departments of Public Services, etc. May I know whether you will add also the question of the basis of salary, in view of the discussions that took place this morning ?

Chairman: That comes within those words, I think.

Fourth Sitting—9th January 1931

Lord Zetland: No. You cannot withdraw the jurisdiction of the local Government, because the local Government admittedly must be supreme over its officers, but it could be laid down that that should be the practice

which it is desirable to pursue. That, Sir, I think covers what I want to put: before the Sub-Committee. The main point is to secure that the powers now vested in the Inspector-General by the Police Act of 1861 should be retained, and I put forward various other suggestions, such as the formation of a Police Council in a Province for the consideration of the Sub-Committee.

Dr. Ambedkar: I want to ask one question for information, if you will permit me to do so. Does the noble Marquess desire that the position of the Inspector-General should be recognised by statute, or does he want the position as it now is under the Police Act to be maintained? Does he want them to be recognised by statute as officers having certain statutory rights and obligations?

Lord Zetland: Yes.

Sir Provash Chunder Mitter: By Parliamentary statute?

Lord Zetland: That is right. The Inspector-General now has these powers by statute, namely the Police Act.

Dr. Ambedkar: That is a different thing to the Police Act, which of course would be subject to amendment by the local Legislature. The question is whether you want the position of the Inspector-General to be recognised as that of an officer performing certain duties, and as an officer not liable to interference by the Minister or by the local Government?

Lord Zetland: That is the effect of it. That is my proposal. I think that the powers which are now vested in the Inspector-General should be retained.

Sir Cowasji Jehangir: By what authority—by the Police Act or by the Government of India Act?

Sir Chimantlal Setalvad: It should be beyond the vote of the local Legislature or of any Legislature to alter the provisions of the Police Act.

Lord Zetland: Yes. I think that it should be the Act of the Federal Government.

Mr. Zafrullah Khan: That can be done by placing the Police Act in the list as one of the Acts which cannot be repealed, altered, or modified, by a Provincial Government without the consent of the Governor-General.

Dr. Ambedkar: That would be the position today, because the Act cannot be amended with the previous sanction of the Central Government.

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Mr. Zafrullah Khan: If I may add just this. Perhaps the members of this Committee are not all aware that both the Federal Structure Sub-Committee and the Joint Sub-Committee set up by Sub-Committees Nos. I and II have suggested quite a large number of enactments on comparatively unimportant subjects to be placed in that list under Section 80(3)(h), and if we put the Police Act under that it will not contravene any principles whatever.

Dr. Ambedkar: I am in general agreement with Mr. Zafrullah Khan. The reason why the Police Act is not placed in the Schedule today is that the subject is a reserved subject, therefore as a matter of fact the Government of India has a complete control over the Department of Law and Order; and when the Department of Law and Order comes to be transferred the position will be altogether different. I think it will be necessary to consider whether we should not at least for the transitional period, consider the necessity of certain safeguards at least for keeping such as they exist at the present time. I personally am in favour of the suggestion that is Police Act should be included in the Schedule which requires today the previous sanction of the Governor-General or the Government of India. *There is another point to which I should like to draw your attention with respect to the question of the Police and the Department of Law and Order, a point which I raised also in the Provincial Constitution Sub-Committee. This question has been considered, of course, from the standpoint of the responsibility of the future Provincial Governments. It seems to me that this questions has also to be considered from the standpoint of the different minorities in the Provinces and the emergency occasions which may arise on occasions of communal trouble and such other emergencies. It seems to me that it is indeed a great safeguard for the minorities in the different Provinces to know which officer belonging to what community is going to administer law and order in that particular locality when a communal riot has taken place. We are all aware that all Police Officers are accused of partiality and of showing favour to one community or the other. There may not be sufficient justification for that accusation : but there maybe cases when there may be abundant justification for the partiality of the officers operating law and order in those particular localities. It seems to me that it is very necessary in the interests of the protection of the minorities that the transfer and posting of Police Officers should not be, at least in times of emergency, in the hands of Ministers. It may be that a Minister who may have a communal majority in the Province may on any particular occasion shift a Police Officer who may not favour the particular community to which he belongs.*

Mr. Zafarullah Khan : Ordinarily the Inspector-General does it.

Dr. Ambedkar : I know that in the Bombay Presidency a great row was created on account of the transfer of Police Officers. I do not know whether it was done under the Inspector of Police or by the Officer in charge; but I think that is a great safeguard which it is necessary to provide for in the future Constitution of India.

My specific proposal is this, that in cases of emergency, as a riot or communal trouble takes place, the Governor should have over-riding powers

over the Minister in different localities with regard to the Police.

Fifth Sitting-12th January 1931

Chairman : Doctor Ambedkar, Mr. Zafrullah Khan, and Sardar Sampuran Singh are averse to further recruitment on an All-India basis for the Indian Civil Service, save in respect of the European element in that Service. Some members are of opinion that recruitment for judicial Officers should no longer be made from the Indian Civil Service.

Dr. Ambedkar : Also the Indian Police Service, Sir.

Chairman : You want to put in, do you, "for the Indian Civil Service and the Indian Police Service " ?

Dr. Ambedkar: Yes.

Chairman: Does that apply to Mr. Zafrullah Khan ?

Mr. Zafrullah Khan: Yes.

Chairman: And to Sardar Sampuran Singh ?

Sardar Sampuran Singh: That is right.

Chairman: I am only purporting to record your views there, so I will put in the words " and for the Indian Police Service " .

Sixth Sitting— 13th January 1931

Dr. Ambedkar: I should like to have a new paragraph inserted after sub-paragraph (4) to this effect : " The Sub-Committee desires that a generous policy be adopted in the matter of the employment of the depressed classes in the Public Service, and it particularly recommends that the recruitment of the Police and Military, from which they are now excluded, should be thrown open to them."

Mr. Chintamani: Are they excluded by rule, or merely as a matter of practice?

Dr. Ambedkar: By rule. The Police Service Commission expressly lays it down that the depressed classes are ineligible.

Mr. Chintamani: If there are rules excluding the depressed classes from employment in particular Departments, such as the Police or Military, they are not rules which hold good over the whole country. There may be such rules in some Provinces, but not in all.

Dr. Ambedkar : If it is desired I would have my proposal end as follows : " and in particular recommends that they (the depressed classes) should not be excluded from any Department of the Public Service hereafter by reason of their untouchability " .

Raja Narendra Nath: Surely clause (5)(a) covers that.

Sir Cowasji Jehangir: The position is that this community has been excluded on account of the impracticability of employing them. It is no good going into

details here and now. If we had a separate section of the Police for the depressed classes, there would still remain the difficulty of members of such classes doing the work of policemen amongst a population which resented it. How this great disadvantage is to be removed is not clear. I cannot express any opinion. What has been done has been done with the greatest reluctance, as I think Dr. Ambedkar will admit. But I see no objection in expressing what Dr. Ambedkar wishes us to do even though it be merely pious. I am afraid that we have expressed the same opinion on hundreds of occasions, and nothing has come out of it. Dr. Ambedkar knows very well what orders have been passed, and how they have proved to be impracticable. Nevertheless, I support the inclusion of such a paragraph as he proposes. We take the risk and know it may not be a practical proposition, but as you have said on a previous occasion, we cannot always be logical when we are aiming at an ideal.

Dr. Ambedkar : I am particularly anxious that the Police and the Military should be mentioned, because those are the Departments for which the members of the depressed classes would be most fit. *Chairman*: The point is covered by paragraph (5)(a) and (b). *Dr. Ambedkar*: In that way the question of the Anglo-Indian community is also included. I propose a new clause to follow clause (4). " The Subcommittee desires that a generous policy be adopted in the matter of the employment of the depressed classes in the Public Services, and in particular recommends that the recruitment to the Police and Military Departments, from which they are now excluded, should be thrown open to them."

Raja Narendra Nath: I have a suggestion to make, namely, that we should add: " No person shall be under disability or shall be prejudiced in any way for admission to any Service of the country merely by religion, caste or sex." I would have that as a special recommendation.

Dr. Ambedkar: That will come later.

Mr. Basu: I sympathise with Dr. Ambedkar's desire to see the disabilities under which his community suffers removed, and if there is in any Province any disability laid down by administrative rules, those rules should be done away with. But the way in which he has put this statement makes it much too general. For instance, in my Province, a great many posts are filled by members of the depressed classes. This is not a matter which greatly concerns my Province.

Dr. Ambedkar: I am prepared to insert some limiting words such as, " where they are at present excluded ".

Raja Narendra Nath: There is no rule debarring their employment in the Police, but in practice they are not employed. Once a question was raised by

a Member of the Council asking the Government why these people were not recruited for the Police and whether the practice was not in contravention of Section 96 of the present Government of India Act; the reply was not satisfactory. I think the addition of the words which I have suggested will help, and that also the expression of a general desire and general recommendation will also help. But let me tell you that the expression of a general sentiment would not be so effective as the insertion of the words which I have suggested.

Major Stanley: A specific reference to the Military Service is surely outside the scope of this Committee.

Mr. Mody: We have recommended that the requirements of the Army should be borne in mind.

Chairman: I suggest you would make it slightly less controversial if you said this, " And in particular recommend that the recruitment to all Services should be thrown open to them."

Mr. Mody: Yes, from which they are now excluded.

Chairman: I should not say that because that will raise a point of controversy. All you want to say is that recruitment to all Services should be thrown open to them.

Lieut.-Colonel Gidney: That there shall be no disqualification for such employment.

Chairman: May I point this out ? If we are to make this Report read intelligibly it is a little awkward if we have two consecutive paragraphs which seem to me to cover exactly the same ground, and therefore I would suggest to Dr. Ambedkar that if we have these words it is better that they should come after clause 5. We should make our general recommendations in clause 5, and then I suggest we should attach a paragraph at the end of clause 5 saying something of this sort : " In making this recommendation,"— that is to say the recommendation in clause 5—"the Sub-Committee have particularly in mind the case of the depressed classes. They desire", and so on.

Dr. Ambedkar: Very well.

Chairman: We will discuss clause 5 first if you do not mind and see whether we ought to add some clause to that effect. Has anyone any observations to make on clause 5 as it is drafted ?

Raja Narendra Nath: That is what I said. I suggested after " disability " you should add " or shall be prejudiced in any way ".

Chairman: I will put that later. We will take it subject to that point; we will come to that later.

Dr. Ambedkar suggests, having passed clause 5, that we should add these words, "In making this recommendation the Sub-Committee have particularly

in mind the case of the depressed classes; they desire that a generous policy be adopted in the matter of the employment of the depressed classes in Public Services, and in particular recommend that the recruitment to all Services, including the Police, should be thrown open to them." That is the amendment proposed by Dr. Ambedkar to be added on to the end of clause 5.

Those in favour of that please signify; those of the contrary opinion; it is carried.

8

IN THE PLENARY SESSION (GENERAL REVIEW)

Eighth Sitting—19th January 1931

DEMAND FOR SPECIFIC AND CONCRETE PROVISIONS FOR SAFEGUARDS OF DEPRESSED CLASSES IN THE FUTURE CONSTITUTION

Dr. Ambedkar: Mr. Prime Minister, the Round Table Conference has had to grapple with two most important questions which must arise in any attempt to organise the political life of a community. The problem of responsible government was one of them and the other was that of representative government.

On the question of responsible government in the Provinces I have very little to say. I accept the report of the Committee and subject to my dissents, I stand by it. But regarding the question of responsible government in the Centre I am afraid I take a different view. It would be dishonest to say that the report of the Federal Structure Sub-Committee does not contemplate change in the bureaucratic form of government as we know it today. But it would be equally dishonest for me to conceal from you my opinion that this change is shadowy and not substantial, and the responsibility is bogus and not real.

The Lord Chancellor told us that he had sown the seed and it was for us to tend the plant. Sir, we are indeed very grateful to the Lord Chancellor for the great part he has played in this momentous Conference. Grateful as I am to him I am not sanguine that the plant he promises will grow. I fear the grain he has chosen for his seed is sterile and the soil in which he has cast it is not congenial to its growth.

I had submitted to the Lord Chancellor a statement containing my views on the future constitution for Federal India. I do not know whether or not the

Committee on which he presided considered it, for I do not find any reference to it in the report of the Committee on which he presided,

I adhere to the views I expressed therein, and I cannot give my approval to a constitution which so largely departs from those views. Indeed if I were given a choice between the existing system and the cross-bred by the Committee I would prefer the existing one. But, Sir, if the constitution for the Central Government contained in the Report of the Committee satisfies Sir T. B. Saprú, who has been the friend, guide and philosopher of this Conference, if it is agreeable to Mr. Jayakar, who proclaimed himself the representative of the Youth of India, and if it pleases Sir A. P. Patro, who speaks, as he says, in the name of the Non-Brahmins of India, it is not for me to oppose. My attitude, therefore, is that of one who does not approve but who also does not obstruct. I will leave it to those who bless it to carry it through.

This attitude is all the more agreeable to me because I have no mandate from those whom I represent regarding the form of government. But I have a mandate and that is, while not opposing responsible government, to see that no responsible government was established unless it was at the same time accompanied by a truly representative government. It is when I look at the achievement of the Conference to find out how it has dealt with the question of representative government that I feel most disappointed. The franchise and the representation of the different classes in the Legislatures are the two pillars on which a truly representative government can rest. Everybody knows that the Nehru Committee had adopted adult suffrage and that that part of the constitution framed by it had the support of all political parties in India. When I came to this Conference I had thought that so far as the question of franchise was concerned the battle had already been won. But in the Franchise Committee I was completely disillusioned. I found to my great surprise that all those who had signed the Nehru Report had done so with mental reservations, so much so that it was difficult to persuade even the Indian Liberals to consent to enfranchise 25 per cent of the population for Provincial Legislatures. The franchise for the Central Legislature is no doubt an unknown quantity. But I have no hope that it will be such as to make the Central Legislature more representative of the people than the Provincial Legislatures are going to be. A franchise so limited must necessarily make the future government of India a government of the masses by the classes.

Regarding the question of the distribution of seats among the majority and the various minority communities we all know that there is a deadlock. The deadlock is largely due, in my opinion, to the mischief done in the past. I am sure that if the authorities in India had acted in the past on the principle of justice to all and favour to none, the problem would not have become so

difficult of solution. The British Government set different values on different communities according to the political use they made of them and gave to many communities an extraordinary share of political power by denying it to the Depressed Classes in a measure which was their rightful due. In this matter the most aggrieved community is the Depressed Classes, and I was hoping that this Conference would proceed on the principle that what is wrongly settled is never settled, and give to the Depressed Classes their rightful quota of seats by a revaluation of the old values. But this has not happened. The claims of the other minorities have already been acknowledged and defined. All that they stand in need of is alterations and amendments to bring them in conformity with the enlarged structure and increased scope of the new Government. Whatever be the alterations and amendments, no one will dare to furrow out the foundations that have already been laid down. The case of the Depressed Classes is totally different. Their claims have just been heard. They have not even been adjudged and I do not know how many of them will be admitted. To my mind it is not improbable that having regard to the helplessness of their position, the claims of the Depressed Classes for representations may be whittled down to satisfy the ever-increasing scramble by other communities who are manoeuvring not so much for protection as for power.

In view of this I am bound to make my attitude perfectly plain. As the rights of the Depressed Classes in the future constitution are not defined, any announcement that might be made on behalf of His Majesty's Government regarding the introduction of responsibility in the Centre as well as in the Provinces should make it clear that any advance in that direction must be on condition and subject to an agreement between the communities which would provide effective safeguards for the rights and interests of the Depressed Classes. I must emphasize the gravity of the situation and bring to your notice that no announcement will be acceptable to us unless the position is made perfectly clear in this behalf, and that failing this I and my colleague will be unable to accept the responsibility of participating in the further work of the Conference, and will be compelled to dissociate ourselves from it. Sir, in asking you to do so, I am not asking you to do more than give effect to your pledged word. The British Parliament and those who speak for it, have always stated that they are trustees for the Depressed Classes and I am sure that what they have been saying is not one of those conventional lies of civilisation which we are all led to utter to keep human relations as pleasant as possible. In my opinion it is therefore the bounded duty of any Government to see that that trust is not betrayed and let me tell you, Mr. Prime Minister, that the Depressed Classes would regard it as the greatest betrayal on the part of His

Majesty's Government if it were to leave us to the mercy of those who have taken no interest in our welfare and whose prosperity and greatness is founded on our ruination and degradation.

For saying so I will be called a communalist by the nationalists and patriots of India. I am not afraid of that. India is a peculiar country and her nationalists and patriots are a peculiar people. A patriot and a nationalist in India is one who sees with open eyes his fellowmen treated as being less than men. But his humanity does not rise in protest. He knows that men and women for no cause are denied their human rights. But it does not prick his civic sense to helpful action. He finds whole class of people shut out from public employment. But it does not rouse his sense of justice and fair play. Hundreds of evil practices that injure man and society are perceived by him. But they do not sicken him with disgust. The patriot's one cry is power and more power for him and for his class. I am glad I do not belong to that class of patriots. I belong to that class which takes its stand on democracy and which seeks to destroy monopoly in a very shape and form. Our aim is to realise in practice our ideal of one man one value in all walks of life, political, economic and social. It is because representative government is one means to that end that the Depressed Classes attach to it as great a value and it is because of its value to us that I have urged upon you the necessity of making your declaration subject to its fulfilment. You may tell me that the Depressed Classes have your sympathy. My reply is, for a stricken people what is wanted is something more concrete, something more defined. You may despise me for being unduly apprehensive. My reply is it is better to be despised for too anxious apprehensions; rather than be ruined by too confident a security.

9

IN THE FEDERAL STRUCTURE COMMITTEE

Twenty-third Sitting—16th September 1931

HEAD 2

(Questions connected with the Election of Members of the Federal Legislature)

Dr. Ambedkar : My Lord Chancellor, I am speaking for the first time as a member of the Federal Structure Committee. Every new member, in availing himself of the very kind opportunity that you gave him for making a general statement of his position with regard to the problems which this Committee will have to face, has given expression to his sense of appreciation of the great services which you, Sir, have rendered to this Committee; and he has

also added a proviso making it plain that the safety of his own community, or of the interests he represented, was a condition precedent to any consent that he might give to the establishment of responsibility in the Central Government. Lord Chancellor, if I do not follow my predecessors in this, it is not because I have no feelings to express on the matter. On the contrary, my feelings are very deep; and if I do not give expression to them it is because I prefer to obey the mandate that you gave us this morning, that all these matters shall be taken as understood.

With these few preliminary remarks I propose to submit my views on the various sub-heads included under Head No. 2. In doing so I do not wish to follow the order of the sub-heads as they are given in the Memorandum which has been circulated to us, nor do I propose to express my views on every item that has been included in that Memorandum. I will only touch upon the topics on which I think I have a definite opinion to express and a definite contribution to make.

The first thing that I propose to deal with is the subject of the composition of the Federal Legislature; and before I proceed with that subject let me make my position clear with respect to the question as to whether the Federal Legislature of future India shall be unicameral or bicameral. Now, I confess at the very outset that I have never been a believer in a bicameral system. I have never accepted that the Second Chamber has any utility at all; but I also agree that, although I have that conviction in me, there are many others who do not accept that position, and I know that in this Conference it will not be possible for us to convince them that a Second Chamber is not necessary. Secondly, I also feel that, if the relations of the two Chambers are properly regulated and there are ways by which the fangs of a Second Chamber could be clipped by proper safeguards so that it could be made safe for a democratic government in India—I do not wish to raise any objection to a bicameral system being introduced in India.

Having said that, let me turn to the question of the representation of the British Indian Provinces in the Federal Legislature of India. In doing that, the first question with which we are concerned and confronted is whether the representation shall be direct or whether the representation shall be indirect. It seems to me that, so far as the Lower Chamber of the Federal Assembly is concerned, there can be no two opinions. It must be constituted by direct election. I am quite conscious of the fact that the Simon Commission, in dealing with this question, recommended that the Lower Chamber, instead of being constituted by direct election, should be constituted by indirect election; and in support of that they observed that, as a matter of fact, there was no distinction between direct election and indirect election, and that indirect

election was only direct election one step removed. Now, logically, perhaps that position is correct; but I submit that psychologically there is a great difference between direct election and indirect election. In my opinion, what is of the utmost importance is that the people of India should be impregnated with the sense that, in the last resort, they are responsible for the good government of the country. And I venture to suggest that, unless the Indian citizen is made to feel that it is he who can make or unmake the government, we shall never be able to succeed in establishing the true foundations of a responsible government in India. Now, if my suggestion is correct, then it follows that we must have some system of election whereby a direct contact will be established between the government and the citizens of the country; and therefore I submit that the blind of an indirect election between the Central Government and the citizens must be removed, and they must be allowed to see the effect of their election upon the government of the country and upon their welfare. I can, under no circumstances, consent to a system which will not provide for direct election to the Lower Chamber of the Federal Assembly.

Coming to the constitution of the Upper Chamber, I approve of the method suggested by the Federal Structure Sub-Committee—namely, that it should be constituted by the method of indirect election in which the Provincial Legislative Councils will form the constituencies. I approve of the system because the election, instead of being carried out by the watertight methods of separate or communal electorates, will be carried out on the basis of proportional representation. Now, I think it is a great advantage in a country like India, where, unfortunately, owing to various circumstances, we cannot avoid the separate representation of distinct communities—where we cannot ignore safeguarding the interests of various groups—to have in the constitution a Chamber which will be non-communal, a Chamber the members of which will have a mandate which will not be drawn exclusively from one particular community, but a mandate which will be broad-based. There is only one comment, however, that I would like to make on this proposal. I have no objection to—indeed, as I have stated, I approve of—the system of proportional representation ; but there is one point which I think ought to be mentioned. All members of the Committee are aware that the minorities in India are not only anxious to have their interests and their communities represented in the various legislatures, but they are also insistent upon the fact that they shall get a certain minimum quantum of representation. Now, my fear is that, although proportional representation may give them some representation in the Upper Chamber, we do not know—for we can never be certain of the results of proportional

representation—we do not know that the various communities will succeed in getting the quantum of representation which they want. I would therefore like to suggest that, to this recommendation of the Federal Structure Sub-Committee, a proviso something on the lines of Article 35 of the Austrian Constitution should be added. That proviso, of course, does not speak of the representation of the communities ; it speaks of the representation of political parties. But it can be easily made applicable to the representation of the communities. This is how the proviso reads :

" The members of the Federal Council and their substitutes shall be elected by the Provincial Diets for the duration of their own legislative period according to the principles of proportional representation; but at least one seat must fall to the Party having the second highest number of seats in the Provincial Diet or (if several parties have an equal number of seats) the second highest number of votes at the last election to the Provincial Diet. When the claims of several parties are equal, the matter shall be decided by lot."

I do not say that this could be taken bodily and adopted in the Indian Constitution; but that the principle enunciated there, that along with the institution of proportional representation there shall be a proviso which will guarantee a quantum of representation, may be adopted in the constitution.

Now, this is all I have to say so far as the representation of the Provinces of British India in the Federal Legislature is concerned. I come now to the other part of the subject, namely, the representation of the Native States in the Federal Legislature. This subject raises two issues for consideration. One is whether each and every State shall *be* represented individually or whether they shall be grouped for the purposes of representation; and the second issue which arises out of it is how they shall be represented, whether by election or by nomination.

I take issue No. 1. The Federal Structure Sub-Committee has recommended that this is a matter that can be left to the States themselves. With all respect to the Sub-Committee, I beg to differ from their position. I do not think at all it is a matter for the States to decide. My view is it is a matter for the Federal Structure Committee to decide as to which units shall be recognised as units of the Federal Constitution which we are making. Just see what would be the result of leaving the whole thing to the Native States themselves. First of all I will assume that each State is represented in the Indian Federation. If that happens, my submission is that the Federation which we will have in India will be a mammoth Federation. Let us look at this comparatively. In the German Empire there were only 25 units of the Federal State ; in Australia we have only 5 ; in Austria 8 ; in Canada 4 ; in Switzerland

22 ; in the United States, the largest Federal State 48. In India, on the assumption I am making that every State is to be represented, we shall have a Federation which will have something like 570 units. Assume, on the other hand, that all the States are not represented in this Federation which we are contemplating and that only some States are to be represented ; then the question which arises is : what is going to happen to the ideal which we have set before ourselves that in the new constitution which we are going to have every inch of Indian area should be represented ? What is going to happen to the States that are going to be left out in the cold ? That is a problem which we shall have to consider.

But, My Lord Chancellor, I have raised this question, not because I am alarmed at the number of States that are going to be the units of the Indian Federation. The thing that disturbs me is this : are we going to recognise every Indian State as an independent unit of the future Federation of India, irrespective of the question whether the units so recognised are capable of bearing the burdens of modern civilisation; or are we going to admit into our Federation units which are going to be units of the utmost lowest possible vitality ? I am sure that when we are discussing this question of the Indian States, we are not quite aware of the multiplicity and variety of the circumstances which will be found in the different States; and, with your permission. My Lord Chancellor, I propose to read a small passage which gives a description of the existing Indian States. I am reading from a book called " The States and their People in the Indian Constitution " by D. V. Gundappa. Now this is really the position. He gives a table with which I do not wish to trouble the Committee; I will read his comment :

" From the foregoing tables, it will be seen that as many as 454 States have an area of less than 1,000 square miles; that 452 States have less than 1,00,000 population; and that 374 States have a revenue of less than Rs. 1 lakh. British India, with an area of 10,94,300 square miles and a population of nearly 222 millions, is divided into 273 Districts. The average area of a British Indian District is therefore 4,000 square miles and its average population about 8,00,000. If the suggestion were made that each District in British India should be constituted into a State, how ridiculous would it be considered ? Yet it is only some 30, among the 562 States, that possess the area, population and resources of an average British Indian District Some of the States are so absurdly small that no one can help pitying them for the unfortunate dignity imposed upon them. As many as 15 States have territories which in no case reach a square mile; while 27 others possess just 1 square mile. Fourteen States exist in Surat district, not one of which, according to the list of 1925, realised a revenue of more than Rs. 3,000 in the previous

financial year. Three of these States could not boast of a population of 100 souls, and 5 of a revenue of Rs. 100." The smallest revenue mentioned is Rs. 20 for the year.

H. H. The Maharaja of Bikaner: May I say that bears out what I said yesterday—that there is a confusion of thought in talking of these units of Indian States' territory as States or sovereign States ?

Dr. Ambedkar: No. There is none.

H. H. The Maharaja of Bikaner: And I am afraid that even this another from an Indian State, about whom Sir Mirza will be able to say more, has fallen into the same error.

Dr. Ambedkar: May be. With all respect to His Highness The Maharaja of Bikaner, I will ask this question : if he has a special definition of what a State is, and if he is going to follow that definition in the matter of admission of States into the Indian Federation, we should like to know what is going to happen to those who are excluded by the definition he has in mind.

H. H. The Maharaja of Bikaner : I think all that will be dealt with in due course later.

Dr. Ambedkar: This Federal Structure Committee cannot blindly give to the States what they want.

H. H. The Maharaja of Bikaner: Nor can the States : we cannot sign a blank cheque either. We have to appreciate each other's difficulties.

Chairman: Dr. Ambedkar, perhaps you will help me with regard to that. You read a most interesting extract, which I followed with a very great care ; but I should like to ask you what are the conclusions that you draw from that extract.

Dr. Ambedkar: What I say is this—that this is a most critical occasion. I say so for this reason that once you accept the proposition that every State, whatever the attributes of the State may be, is entitled to become a member of the Indian Federation, then you give that State an independent right of existence for ever.

H. H. The Maharaja of Bikaner : It has that right now.

Dr. Ambedkar: That is so by the kindness of the British Government; but my submission is that this is a state of affairs which I for one am unable to contemplate or agree to, and for this reason. After all, no unit in these modern days can exist on a scale such as modern civilisation demands unless it has sufficient resources at its command; and it is no use trying to please the fancy of an Indian Prince simply because he delights to call himself a Prince by letting his State be a separate entity, irrespective of the consideration whether his people can benefit by it.

H. H. The Maharaja of Bikaner: They are not called Princes.

Dr. Ambedkar : I submit that at any rate this Committee should lay down certain qualifications which a State must fulfil before it can be admitted into the Indian Federation.

Chairman: This is very interesting. Are you able to help us at all with regard to what the qualifications should be ?

Dr. Ambedkar: I would prescribe a certain area and a certain revenue as the tests. I cannot say offhand what the area should be and what the revenue should be; but I take my stand on the fact that, if the Ruler of a State wants his State to exist as an independent State and to become a part of the Indian Federation, he should be able to prove that his country has the necessary resources and capacity to give to its citizens a civilised life. That is the stand I take.

Sir Maneckjee Dadabhoy : Am I to understand from my friend's statement that he would not permit a small State with small territory and small income to come into the Federation ?

Dr. Ambedkar: Coming to the second part of the question, namely, the representation of the Indian State in the Federal Legislature, the Indian States have made it clear that they will come into the Indian Federation only if they are permitted to nominate their representatives to the Federal Legislature. Now, with all respect to the Indian Princes, I am afraid I cannot agree with them, and I must insist that their representation shall be by election. In making my submissions on this point. Lord Chancellor, the first thing I should like to point out is that, to my knowledge, there is no precedent in any constitution except one, which I am going to mention in a minute, where State Governments are allowed to nominate their representatives in the Federal Legislature. To recognise that a Unit of the Federation is entitled to representation in the Upper Chamber of the Federal Legislature is one thing; but it is a totally different thing from the other proposition, namely, that it is the Governments which should nominate their representatives to the Chamber. The two things are, in my opinion, totally distinct; and the only example I know in which such an arrangement was accepted and embodied in the constitution was the Constitution of the old German Empire, in which the Governments of the States were permitted to send their representatives to the Bundesrat. It may be that our brother Delegates on the other side of this table take their stand on this provision in the Constitution of the old German Empire. Before I proceed further I would just like to make this comment — that I am not sure if the Princes understand full well all the implications of this provision in the old German Empire. The representatives of the various States in the Bundesrat were no doubt regarded as ambassadors of the various States, working with definite instructions, but there was also this tremendous consequence flowing

from it, namely, that the Bundesrat had the power to examine what might be called the credentials of the ambassadors. Not only that, but the Bundesrat had the power to enquire into dynastic matters concerning the various Princes governing the German States, because it followed that, unless a Prince was lawfully recognised as the head of the State, his delegation had no right to sit in the Bundesrat. Now, I wonder whether the Princes who base their claim on this analogy.....

Colonel Haksar : They do not.

Dr. Ambedkar : I wonder if they would permit the Federal Legislature of India to have such powers as the Bundesrat possessed. But, Lord Chancellor, I am not going to discuss this question by referring to precedents or to analogies; I am going to discuss this question on a totally different basis and by applying totally different tests. One thing we are all clear about is this, that we are framing a constitution for establishing a system of responsible government for India. And although we are discussing various matters, I, for one, can never forget that that is the principal objective and the principal task of this Committee. It follows from this that no concession can be made, no scheme can be adopted, if ultimately it is found that that concession or that scheme is going to compromise the system of responsibility or is going to whittle down the system of responsibility at which we are all aiming.

Now, applying that test, it follows that you cannot consent to the claim of the Princes for nomination of their representatives.

Colonel Haksar: In which House?

Dr. Ambedkar: In either House; and for this reason. First of all, anyone who reads the Report of the Federal Structure Sub-Committee will find that not only do the Princes want to come into the Legislature, but they also want to be represented in the Central Executive of the country; and it is only right that the Princes should have that objective, because they would gain nothing by merely coming into the Legislature—their real gain consists in having a hand in the Executive of the country. Now, bearing that point in mind, what I say is this—that you have in the Federal Structure Subcommittee laid down that the system of responsibility in the Central Legislature will be a system of collective responsibility. If the representatives of British India are going to come into the Federal Legislature by election, and if the representatives of the Indian States are coming into the Federal Legislature by nomination with definite instructions from those who will nominate them, I, for one, fail to understand how the system of collective responsibility—with divided mandates, with different instructions—is going to work in the future constitution of the country.

There is also another way in which the system of responsibility is going to

be affected by the nomination of the Princes to the Federal Legislature. Sir Tej Bahadur Sapru yesterday very rightly condemned the existence of the official nomination bloc, and for the simple reason that, being at the beck and call of the Executive, the nominated bloc makes the Executive irresponsible to the Legislature. I think that is the gist of his argument for not supporting the official bloc. Now, the question that I wish to raise is this: Are we quite certain that the Princes' nominees to the Federal Legislature will not play the part of the official speaking for myself, I will be quite candid and say that I am not certain about it; and I will make my position quite clear as to why I say that. We all know that the Princes carry on the administration of their States under what is called the system of paramountcy, and I think we all know that one of the incidents of the doctrine of paramountcy is that the Paramount Power claims the right of advising the Princes on the matter of important appointments.

H. H. The Maharaja of Bikaner : Not in all. It may be in one or two cases.

Dr. Ambedkar: Well, I can only say that that is what the Butler Committee stated.

Colonel Haksar : Did they ?

H. H. The Maharaja of Bikaner : Did they ? If they did they were wrong, as they were in some other respects.

Dr. Ambedkar : I think I am right at least, that is how I have understood it. Add to this the fact that paramountcy in the new constitution is contemplated to remain a reserved subject. Now, supposing the Political Department, which will be exercising the powers of paramountcy, claims the right to advise the Princes in the matter of nomination to the Federal Legislature, what is the effect ?

H. H. The Maharaja of Bikaner: It cannot and would not; and that would not be accepted by the States.

Dr. Ambedkar: What I say is this. Suppose the Political Department claims that the nomination of the Princes to the Federal Legislature is an important appointment, and as such the Political Department must exercise its right to advise the Princes—what happens ? So far as I am able to judge, so far as I am able to conjecture, the only result will be that the Princes' nomination will in fact be nothing less and nothing else than the official bloc replaced in another form.

Colonel Haksar : It does not happen.

Dr. Ambedkar: And now, at this stage, My Lord Chancellor, I would like to say one thing.....

Sir Maneckjee Dadabhoy : But you have not given us the solution of that problem.

Dr. Ambedkar: I say election, absolutely.

Colonel Haksar: Dr. Ambedkar, would you at some time or other give us the reference to the Butler Committee's Report ?

Dr. Ambedkar: I will try.

Colonel Haksar: Because you credit them with the assertion that the Political Department makes appointments in the important States.

Dr. Ambedkar : Well, Colonel Haksar, we will not wander into a controversy ; but if paramountcy is not brought into operation many other influences could be brought to bear.

Colonel Haksar: You are departing from your position.

Dr. Ambedkar: No, I am not. I will give you the reference.

Now, My Lord Chancellor, there is just this one observation that I would like to make, which I have no doubt made earlier, but I would like to emphasise it. Of course, we are all trying to work out a federal constitution for India as a whole. But I would also like to emphasise that we are not here merely for the purpose of getting a change in the form of Government ; a change from a unitary government to a federal government.

Chairman: Some people say ; whatever be best administered is best.

Dr. Ambedkar : Yes, but I thought we were all agreed on the fact that the thing that is best administered is responsible government. Therefore, although I am willing to make any concession possible in order to bring this Federation into existence, I cannot be a party to any concession or any compromise, as I said, which will only give us the skeleton of federation without the soul, namely, responsible government.

Frankly speaking, I really do not understand why the Princes should oppose the principle of election. Even in the old German Empire, where the right of the federal units to be represented by their governments was conceded, it was also conceded by the States that the Lower Chamber, the Reichstag, should be constituted by election by the people of the States. I cannot see what objection there can be on their part, because all that popular election to the Federal Assembly in the Native States would involve would be the dividing up of their territory into so many constituencies. I could quite understand their objection if we were saying that they must have legislative institutions in their own territory which would control their own administration ; but we are not saying anything of the sort. All that we are saying is this : permit us to divide your territory into constituencies and let your people elect your representatives who will come and vote in the Federal Assembly, not to decide upon your particular matters, not to determine the affairs of your State, but to discuss the affairs of India as a whole. I certainly do not understand what objection there can be from the point of the native States.

Sir Maneckjee Dadabhoy : And in small States also ?

Dr. Ambedkar : If they accept the view which I am urging, that election to the Federal Assembly cannot disturb their own administration—cannot cause any prejudice to their own States—then I submit that, so far as the problem of the representation of the States in the Lower Chamber is concerned, it will be easy of solution. The problem of the representation of the States in the Upper Chamber, of course, will remain to be solved; and if it is to be solved by a method which will not involve the representation of the States by nomination, I beg to suggest two alternatives for it. The first alternative that I would suggest is the adoption of the Norwegian plan, where you have one elected Chamber popularly constituted, and where that Chamber elects out of its own members a Second Chamber, so that you will avoid thereby the difficulty of the States having to nominate their representatives in the Upper Chamber. Or, if that is not acceptable, there is another solution which I think may be offered. That is that the Princes may suggest a panel of candidates from which representatives may be selected to the Federal Legislature.

H. H. The Maharaja of Bikaner : By whom ?

Dr. Ambedkar: By the Lower Chamber. But in any case I must make it plain, so far as I am concerned, that I shall not be a party to any system which permits the representation of the States by nomination.

Now, My Lord Chancellor, I will take up the other head of discussion, namely, representation of special interests.

Chairman: You have got to No. (v)—provision made for the representation by special constituencies of special interests.

Dr. Ambedkar: The first thing I would like to make clear is this I do not want the Depressed Classes to be treated as a special interest. I want the Depressed Classes to be treated as a separate community for political purposes in the same way as the Mohammedans or the Christians are treated. They must have the same right of representation, not only in the Provincial Legislative Councils, but also in both Houses of the Central Legislature.

Chairman: When you say the same rights, do you mean to say they are to have the same number as the others ?

Dr. Ambedkar: No; the numbers that they will be entitled to on the basis of the principle that may be adopted in common with all.

Chairman : You said the same. Thank you.

Dr. Ambedkar : Now I come to the other interests which have so far been recognised; namely. Trade, Commerce, Landholders and Universities.

Dr. Shafa'at Ahmad Khan : Not Universities ?

Dr. Ambedkar: No, we have not got Universities. I am afraid I cannot give

my consent to the representation of these special interests. First of all, I do not quite understand why, for instance, a landholder needs any special representation. I do not know what are the difficulties and disabilities from which he would suffer if he were to stand out in a general constituency and seek the suffrages of his people. There is nothing to prevent him from doing that. In all other countries—for instance, in England and all European countries—no provision is made, I am sure, for the special representation of such interests as Trade, Commerce and Landholders; they are allowed to find their place through the general electorates, and I think the same system should be adopted in India. My further objection to making any special provision for the representation of these interests is this : first of all, these interests get themselves represented by a very, very narrow constituency; it is almost by a clique. Now, if their voting power were confined to matters which concern them, the evil would be comparatively small. But they do not only come on the basis of this restricted constituency into the Legislative Council; they vote upon all and sundry matters that come before the Legislative Council. One of the things that I have noticed in the Bombay Legislative Council is this, that we have there constituencies for Trade and Commerce. Now Trade and Commerce in the Bombay Presidency have been the monopoly of a special community which I am sorry to say is the most orthodox community known to me.

Mr. Jayakar : Politically ?

Dr. Ambedkar: Socially. Now, such members get these easy pocket constituencies in order to get themselves into the Legislative Council. Then, if any progressive measure is brought forward, they come and side with the orthodox and thereby defeat the ends of freedom and progress. I therefore object to it. If any such provision were necessary, I would make this concession—that any such interest, for instance Trade, Commerce or Landholders, may have the right to be heard in the Legislative Assembly or the Upper Chamber whenever a Bill affecting their particular interest is being discussed. The right of audience may be granted, but there is no necessity for granting them membership of the Legislature or the power of voting on any Bill that comes before the Legislature.

With regard to Labour I would say this. I do not know whether my friend Mr. Joshi will agree with me or not; but my own view is that, if the system of adult suffrage comes into operation—and I hope that, with the help and support of Mahatma Gandhi we shall be able to carry it through in this Conference—then there may perhaps be no necessity for the special representation of Labour; but if we adopt a system of representation which keeps out a large body of the working classes from the constitution, so that

they cannot control the Government and influence it for bringing about their welfare and their prosperity, then there would certainly be a necessity for making special provision for the representation of Labour, and I think that could be done by recognising the various unions as the electoral colleges for the purposes of such representation.

The next topic to which I propose to refer is the question of nominated members. I suppose—I am not sure—that the object of having a bloc of nominated members in the Federal Legislature is principally to give support to what are called Crown subjects, or what in the Provinces, under the Dyarchical System, were called reserved subjects. First of all I should like to make it plain that I have a great horror of this nominated bloc of officials. If there is any institution which, in my opinion, has absolutely destroyed the system of responsibility in the Provincial Governments, which was sought to be introduced by the Montagu-Chelmsford Reforms, it is this institution of the nominated official bloc. It is this which has perverted the whole system. It is this group which has made possible, in the Provinces, Government by a minority against a majority. It is this group which has made alliances with all sorts of people and groups—not necessarily groups which needed its help or support, but groups which were ready to sell themselves for petty gains. I have, as I say, the strongest objection to a nominated official bloc.

My next submission is that this nominated official bloc is really not necessary at all for the purpose of lending support to what are called the Crown subjects. In the Provincial Constitution, where we have now the system of reserved subjects, we have various methods of supporting and safeguarding these reserved subjects. First of all, under section 72-D, we have a person in charge of these reserved subjects who is non-removable and whose salary is non-votable; secondly, the Governor has been given the power of certifying expenditure which he thinks is necessary for the purpose of safeguarding the reserved subjects; thirdly, the Governor has the power to certify Bills which he thinks are necessary for the purpose of maintaining the efficiency of the reserved subjects; and lastly, the Governor has the power to veto any Bill to which he has an objection. My submission, Lord Chancellor, is that the safeguards which I have just mentioned—namely, non-removability of the person in charge of the reserved subjects, the non-votable character of his salary, the power of certifying expenditure which the Governor possesses, the power of certifying Bills necessary for the safety of the reserved subjects, and the ultimate power of the Governor to veto a Bill—are quite sufficient, in my opinion, to maintain the integrity of what are called Crown subjects.

Sir Tej Bahadur Sapru: May I ask you one question at this stage? You suggest there should be power of certification?

Dr. Ambedkar: I do not suggest there should be power of certification; I will deal with that matter at a later stage. What I am saying is that these are other alternative methods which are provided in the constitution beside the nominated official bloc. That is my argument. My submission is that, when you have such abundance of legislative and executive powers in the Government to safeguard what are called Crown subjects, there is no necessity for having an official bloc in the Legislative Council at all.

Secondly, what I say is this, that by having a nominated official bloc you disguise and conceal the real character of what is occurring. There are many measures which the Legislative Council probably would not have passed if the nominated official bloc had not been there, and which the Governor would have been obliged to certify or carry through in some other way under his special powers; but, because of the presence of a nominated official bloc, you have the anomalous position of giving the appearance to the outside world that the Legislative Council is working normally on the basis of majority rule, when as a matter of fact, the decisions have been taken by a minority with the help of the official bloc. I submit, therefore, there is no use in the future constitution of India for this nominated official bloc.

There is one last subject to which I should like to refer, namely, the question of the Oath. This question, in my opinion, is a very big one; and it is a question which opens up another big question, namely, that of common citizenship for India. In the short time which I have at my disposal I do not think it will be possible for me to discuss the whole subject; and I would therefore request that a special occasion may be provided when this question can be thrashed out, because I hold the view that there can be no real federation unless there is common citizenship. It would be a misnomer to call a constitution a federal constitution if it did not provide for a common citizenship. This, as I say, is a point which I cannot develop at the moment because there is not sufficient time.

Twenty-fifth Sitting—18th September 1931

HEAD 2

(Questions connected with the Election of Members of the Federal Legislature)

Dr. Ambedkar: I would like to ask Mr. Gandhi this question : The Congress has not considered at all the question regarding the nature of the Federal Legislature or the Federal Executive. The only question that the Congress has considered is whether it will be part of the British Empire or whether it will be independent. Consequently, what Mr. Gandhi said yesterday might be his own personal view. I should like to ask whether he was expressing his own

personal view, or whether he claimed in that respect to represent the views of the Congress. Then I should like to ask him a second question. In so far as we know of the proceedings of the Congress which are open to the public, this question was not considered by the Congress to my knowledge. It may have been considered in secret by the Congress. Therefore, I ask the question. The next question is whether the question of indirect election to which, I think, he gave his support yesterday, was not put forward by Mrs. Annie Besant in the Home Rule Bill which was formulated, and whether that method of constituting the Federal Legislature was not definitely rejected by the Congress.

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II

Lord Chancellor, another point of view has been pressed (and very strongly) by Dr. Ambedkar; and as that may have some weight with some of the members on this side, I should like to refer to that as well. It has been suggested that, if the principle of election of State subjects were not guaranteed, there might be created a bloc which, in essence, will not differ very much from the official bloc; and it was suggested that the Political Department in particular will play a great part in constituting that bloc. Sir, I have no hesitation in stating that the great body of public servants who constitute the Political Department are as conscientious and as fair as any other body of public servants anywhere in India or outside.

Dr. Ambedkar: Why do you want responsible government at all, if that is so ?

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IV

Dr. Ambedkar : Why are you not similarly kind to Sir Samuel Hoare, and let him take his own time for introducing popular institutions in British India ? He will be grateful to you, I am sure.

Chairman: I do not think that we need discuss Sir Samuel Hoare's gratitude. That is a matter which is not before the Committee.

Pandit M. M. Malaviya: My friend. Dr. Ambedkar, forgets what I have said. I have repeated twice that I desire that the representative principle should be introduced into the States at once. I do not yield even to my friend. Dr. Ambedkar, in that desire; but I recognise a difference between my desire and Dr. Ambedkar's desire and the right of the Ruling Princes to take time to consider when and how the representative principle may be introduced in their States.....

.....Now, My Lord, I want also to say that those of us who are impatient—and none can be more impatient, I will repeat, than myself— to

see the principle of representative institutions introduced into the States, should remember.....

Dr. Ambedkar: May I point out, My Lord Chancellor, that we on this side have never said that representative institutions should be introduced into the States. All that we say is that there should be constituencies in the Indian States, similar to the constituencies in British India, for the election of the representatives to the Federal Assembly. I have never said that there should be popular Assemblies in the Native States to control the Native States as a condition precedent to the entry of the Princes into the Federation.

Pandit M. M. Malaviya: If Dr. Ambedkar thinks that he has not asked for representative institutions, I leave him to have that satisfaction. We should not think that, if members who will come to the Federal Assembly from the States will not be elected by some popular method, they will not be useful.....even if the representatives of Indian States do not come by popular election—which, I again repeat, I desire that they should—even then we may have some excellent representatives whose co-operation will be very valuable in our work.

Chairman: Summing it up quite briefly, you say that " rotten boroughs " do not always return rotten members.

Pandit M. M. Malaviya: I think Your Lordship. I wish I could imitate Your Lordship's epigrammatic way of putting things.

[Pandit Malaviya further suggested that the introduction of principle of representation should be left at the mercy of the India Princes. If they do it voluntarily, he is delighted] ' but ' he concludes,

" then my recommendation to my British Indian friends would be, let us show patience and courtesy, let us hope that such institutions will be established in proper time, but let us not do anything to create unnecessary obstacles in the way of the establishment of that All-India Federation upon which now, as matters stand, our hopes so much depend.

Dr. Ambedkar: That is the same advice that is given to the Depressed Classes—that their salvation will also come in time.

Pandit M. M. Malaviya: My Lord, my friend, Dr. Ambedkar, is entirely mistaken and, I am sorry to say, not so well informed as I thought he would be.

Dr. Ambedkar : I should like to be enlightened.

Pandit M. M. Malaviya: I am not saying that the Depressed Classes should wait. In a criticism of the Montagu-Chelmsford proposals which I had the honour to publish when the proposed Reforms were first announced in 1918, I urged that, so far as the Depressed Classes were concerned, it is particularly a question of education, and I pleaded—and I still plead and the Congress

has pleaded—for universal primary education. It has pleaded all the years of its existence; and if the Government of India, which commanded all the resources of the country, had spent sufficient money on promoting primary education among the people, I am sure the words " Depressed Classes " would have been a matter of history by this time—long before this time. We have desired that they should receive elementary, primary education, that they should receive secondary education, that they should receive higher education. I have the honour to be the Vice-Chancellor of a University. the Benares Hindu University, and there a student of the Depressed Classes gets a seat exactly as a student of any other class does; there is absolutely no distinction. And those who have received education give an excellent account of themselves, even, if I may say so, as my esteemed friend Dr. Ambedkar has given.

Dr. Ambedkar: I am still an " Untouchable " in society, although I am educated. Education has not raised me out of that.

Pandit M. M. Malaviya: I beg your pardon ; you are not an Untouchable ; you are a dear friend and colleague—a brother with whom your most orthodox friends have the pleasure to meet and work, and you know that they work together with you. Today there are more Brahmins working in the cause of the Depressed Classes than the representatives of any other class. I think that is a fact which my friend, Dr. Ambedkar, will admit. *Pandit M. M. Malaviya:* will admit. Now, the second point. My Lord, which I should like to touch upon is the question of direct and indirect election. I fear that the remarks which Mahatma Gandhi made yesterday in this connection were somewhat misunderstood.....When yesterday he spoke approvingly of Lord Peel's suggestion, the object, as I understood it, was to show that, it was felt that there were practical difficulties in the way of extending the franchise to all the adults in the country..... It was most certainly to introduce the principle of adult suffrage that Mr. Gandhi suggested that plan. He has not approved the idea that an indirect method of election should be adopted whereby the people should feel that they were kept out of the right to vote.

Sir Tej Bahadur Sapru: I listened with great attention and interest to Mahatma Gandhi's exposition of the principle of adult suffrage, but I am very much of the view that it is much lower than that recommended in the Nehru report. If I am wrong, will you please correct me ?

Sir Samuel Hoare: Pandit Malaviya, it would still be direct election. You are now making an argument in favour of adult suffrage. That was not the subject to which the Committee was addressing itself yesterday, so I understand. That subject was the alternative of direct and indirect election ; and, as I understood Mahatma Gandhi's speech, he was in favour of adult suffrage, but

he was also in favour of indirect election.

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Colonel Haksar :I do not think that I need go on further. I would merely echo the words of our esteemed friend, Pandit Malaviya. If I might summarise what he said in that portion of his speech, it was this. The paramount consideration is to create a State in India in which no part will stand outside that State. The paramount consideration is to unite the country. If that be the paramount consideration, I say that that object should be achieved at all costs, and that nothing should be allowed to come in the way of the attainment of that object.

Dr. Ambedkar: Not at all costs—not at our cost !

Twenty-sixth Sitting—21st September 1931

HEAD 3

(Relations between the two Chambers of the Federal Legislature)

Dr. Ambedkar: There is one question I should like to put, if I may interpose at this point. Sir Tej said that, in the matter of Supply or Money Bills in general, the Upper House should have the right to make suggestions and references to the Lower House; but what happens if the Lower House does not accept the suggestions made ?

Sir Tej Bahadur Sapru: Then the Upper House is free to reject the Bill, but if a deadlock thus arises you can follow to the South African precedent and adopt their procedure.

Dr. Ambedkar : How can a deadlock arise if the Upper House has power only to make references or suggestions ?

Sir Tej Bahadur Sapru : It may reject the Bill completely.

Sir Muhammad Shafi: Then what is the substantial difference between an amendment which is referred back to the Lower House and a suggestion to the Lower House which is backed by power to reject ? What is the substantial difference between the two ? The final decision is to be by Joint Session of the two Houses.

Sir Tej Bahadur Sapru : In the first place, it is more consistent with modern practice.

Dr. Ambedkar: According to your suggestion there would be no vital difference between Money Bills and others except this, that with regard to a Money Bill the Lower House alone would have the right of initiation. In all other matters the two Houses would be equal ?

Sir Tej Bahadur Sapru: That, in effect, is what I have said.

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**Mr. Zafrullah Khan*: My submission, therefore, is that, having regard to the

proposed strength—though I do not know whether that relative strength will be maintained—it is only consistent with the views expressed so far that the majority required should not be a simple majority or even an absolute majority of the total number of Members of both Houses, but a higher majority than that.

Dr. Ambedkar : Would Mr. Zafrullah Khan permit either Chamber sitting separately to decide upon measures by a simple majority or would he require an actual majority of the Members in that case ?

Mr. Zafrullah Khan: A simple majority.

Dr. Ambedkar : Then I do not see why they should not decide questions by simple majority when they are sitting together.

Sir Muhammad Shafi: Because there is a difference of opinion between the two Houses.

Mr. Zafrullah Khan: Very often Members are not able to see the points of view of other Members; but one reason will be that the character of the two Houses will be different.

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Sardar Ujjal Singh: So far as money matters are concerned, I would like to give a few illustrations from present day federations. Take first the Dominion of Canada, a Member of the British Commonwealth. There, Sir, section 53, which has already been pointed out by various speakers, only says that—

" Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons." In Canada the powers of the two Chambers have not been definitely defined. The reason for this is that, under section 18, it is laid down that Canada will follow generally the British model. It says :

" The Privileges, Immunities, and Powers to be held, enjoyed, and exercised....."

Dr. Ambedkar : That has no relevancy to this : it is a privilege inside the House. *Sardar Ujjal Singh*: I beg your pardon.

" The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons....." it does not mean the Members of the House of Commons.

Dr. Ambedkar: No, Sir. If you refer to the Preamble, you will see there that the Canadian Constitution lays down that the Canadian Constitution shall be similar to that laid down in the United Kingdom; and you will see that the relations between the House of Commons and the House of Lords are to be the governing principle in Canada, but the privileges of the House of Commons in Canada are not affected there.

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Dr. Ambedkar : The views which have been expressed so far have struck one note which I think is common to all; and that is, that in regulating the relations of the two Houses in the future Constitution of India, there should be equality of status, equality of power, granted to them, except of course in such small and minor matters as the right of initiative with regard to Money Bills and the right of voting. Bearing that, the general consensus of opinion, I think, was that the two Houses should enjoy equality of position.

Now, in all humility and with all respect to the gentlemen who have spoken before me, I must say that I cannot agree with their views. The reason for the difference of opinion that exists between myself and them appears to me to arise from the simple fact that we take a totally different view of the functions and the purposes of the Second Chamber. I could quite understand the views of those gentlemen who propounded yesterday the proposition that the two Houses must enjoy co-equal powers if our Legislature were so constituted that each Chamber represented, to use ancient language, separate Estates of the Realm. If the Lower House were composed of classes which were not represented in the Upper Chamber, and if the Upper Chamber were composed of classes which were not represented in the popular Chamber, then there would be something to say for a view of the sort that was expressed yesterday. But, if our Legislature were constituted on the plan of what I call separate Estates of the Realm, I, for one, would not give my consent to a bicameral Legislature; for, speaking for the masses—I am a rival of Mahatma Gandhi in this respect—speaking for the masses, I could not consent to such a Legislature, and thereby consign their destiny to a government working under a system of this kind and thus to use an expression of the late Lord Asquith—functioning under a system of false balances and loaded dice.

As a matter of fact, the Houses of our Legislature, unless I am mistaken, are not going to be constituted on the basis of separate representation of separate Estates. If I understand correctly the composition of the future Legislature, I take it that the Lower Chamber will be a popularly constituted Chamber—a Chamber which will represent each and every class, each and every shade of public opinion. That being so, I submit that we cannot have a Second Chamber which would claim to be *its* rival or which could claim to have co-equal status. That being my view, I submit, Lord Chancellor, that so far as the question propounded in sub-head (ii) of Head No. 3 is concerned, I would answer it by saying that the decisive voice must be vested in the Lower Chamber.

Chairman: Would you put that in the constitution, Dr. Ambedkar ?

Dr. Ambedkar: Yes, I think it could be done.

Chairman: It could be done; but would you favour it being ?

Dr. Ambedkar: Perhaps you would be kind enough to give me time to deal with that later on. This must particularly be so in the case of Finance Bills. The Second Chamber, in my opinion, may have the power to make suggestions for the consideration of the Lower House, which the Lower House, may accept if it likes ; but the Second Chamber shall not only have no power to initiate a Finance Bill, but it shall not have the power to amend it; and a Finance Bill must become law, as passed by the Lower House, even if it was rejected by the Upper House.

Now, I recognise that the proposal which I have made appears to be a very radical proposal—in fact, I think it might be described as a revolutionary proposal ; but. My Lord Chancellor, if so, it is only because yesterday, when our learned colleagues Sir Tej Bahadur Sapru and Sir Muhammad Shafi dealt with this question, they did not refer to some of the most modern constitutions. It was a surprise to me that they should have confined themselves to drawing illustrations from the relatively ancient Constitutions of the Dominion of Canada, Australia or South Africa. The Canadian Constitution was framed in 1867, the Australian in 1901, the South African in 1909. I do not know why they did not consider the constitutional relations that exist between the House of Commons and the House of Lords here. I do not know why they did not consider the relations that exist, for instance, between the two Houses in Ireland; nor do I quite understand why they forgot to consider the proposals of the Bryce Committee. If they had done so, I am sure that the surprise with which this proposal of mine has been received by members of the Committee would not have existed; but, as they have not done so, I would venture to support my proposal by citing precedents for it. Now, my proposal is exactly the proposal that is embodied in the Parliament Act of 1911. There it is provided that, so far as a Money Bill is concerned, the House of Lords may consider, but the House of Commons is supreme; and it is provided in the Act that when a Money Bill is considered and passed by the House of Commons it shall become law, notwithstanding the absence of consent of the House of Lords, provided His Majesty gives his Assent to the Bill. Again, My Lord, this is the relationship that is laid down between the two Houses, so far as Money Bills are concerned, in the Irish Constitution. Section 35 of the Irish Constitution says :

" Dail Eireann shall in relation to the subject matter of Money Bills as hereinafter defined have Legislative authority exclusive of Seanad Eireann." Then Article 38 says that—

" Every Bill initiated in and passed by Dail Eireann shall be sent to Seanad Eireann and may, unless it be a Money Bill, be amended in Seanad Eireann."

and so on,

"but a Bill passed by Dail Eireann....." and then the rest follows that Article.

The next authority that I would cite in support of my proposition is the recommendation of the Bryce Committee. Now, as all of us know, this was a most representative Committee—a Committee the membership of which was drawn both from the House of Commons and from the House of Lords—and the Committee came to the unanimous conclusion that at least so far as Money Bills were concerned, the provisions embodied in the Parliament Act of 1911 were right and proper.

Then, My Lord, I would cite a third authority in favour of this proposition. The Report of the Bryce Committee and the recommendations made by it were not shelved; they were considered by the Coalition Government of 1922. Resolutions were moved (I am glad to see that Lord Peel is here) showing what action the Government of the day was prepared to take upon the Report of the *Bryce* Committee. The Resolutions were placed before Parliament on the 11th July 1922. The Fourth Resolution reads as :

" That while the House of Lords shall not amend or reject Money Bills. The decision as to whether a Bill is or is not a Money Bill or is partly a Money Bill and partly not a Money Bill shall be referred to a Joint Standing Committee of the two Houses. The decision of which shall be final."

The principle recommended by the Bryce Committee that Money Bill shall be the exclusive concern of the House of Commons was accepted and affirmed by these Resolutions. Let me here quote the speech made by Viscount Peel, then the Secretary of State for India, on these Resolutions. In moving the Resolutions he said that the Resolutions were a general sketch laying down principles only. He went on to say that the Second Chamber should not have equal power to or become a rival of the House of Commons nor have the power of dismissing Governments or making the Executive equally responsible to both Chambers.

I think that I have given sufficient authority in support of the proposition which I have placed before this Committee for its consideration.

Lord Peel : May I suggest that that was a Coalition Government ?

Dr. Ambedkar: It was a Coalition Government.

Lord Peel: In a Coalition Government you cannot say everything that you want to say.

Dr. Ambedkar: Your Lordship may have made mental reservations—I cannot say—but there it is. The Coalition Government was a Government in which more than one Party had joined. Therefore, the statement made in the name of the Coalition Government was a statement which had the support of more than one Party, including Lord Peel. I submit that I have cited sufficient

authority to show that the proposition that I have placed before this Committee is not a revolutionary proposition.

Sir Tej Bahadar Sapru : May I ask Dr. Ambedkar if he will give a reference to any federal constitution to support his point of view ? England is not a federation, and Ireland is not a federation.

Dr. Ambedkar: That is so.

Sir Tej Bahadar Sapru: The Bryce Committee had nothing to do with a federation.

Dr. Ambedkar: My reply is that unless your federal constitution was so composed that the Upper House exclusively represented some other interests not represented in the Lower Chamber, the proposition would stand. This has nothing to do with the form of the Government, whether it was unitary or federal.

Sir Provash Chunder Mitter: I should like to ask one question. The House of Lords was a hereditary House. Was not the Irish Upper House one at that stage also ?

Dr. Ambedkar: I am submitting that even the House of Lords, which is a most ancient House, with all the dignity, traditions and privileges behind it, consented to this revolutionary change. What are the Indian States as compared with the House of Lords, if I may submit it with all due deference ?

H. H. The Maharaja of Bikaner: With all due respect to the great Peers of the British Realm, the States possess sovereignty over any territory which is not British territory, whereas even the most important Peers of the Realm and their estates are in a totally different position.

Dr. Ambedkar: The sovereignty is subject to the influence and power of the House of Lords.

Sir Muhammad Shafi: May I ask Dr. Ambedkar what are the privileges of the House of Lords ?

Dr. Ambedkar: Taking this position, the next thing that I would submit is that the constitution should contain a definition of what a Finance Bill is. It may be defined, as has been suggested, in the way in which it is defined in the Irish Constitution, which is not different from the one given in the Parliament Act of 1911.

The next point that I would submit, arising out of the matter, is that a Member in charge of a Bill should have the privilege of claiming that his Bill is a Finance Bill. If there is a dispute between the two Houses as to whether or not a Bill claimed to be a Finance Bill is a Finance Bill. I submit that the dispute should be resolved by the decision of a Joint Committee of both Houses, in which each House should be represented by a number of Members proportionate to its strength, and in which all parties should also be

represented according to their strength.

Sir Maneckjee Dadabhoy: You want to make a departure from the existing practice.

Dr. Ambedkar: Very much so.

Mr. Zafrullah Khan: If the existing practice were satisfactory we would not be here.

Dr. Ambedkar: The next matter to which I want to come is non-financial Bills. In the case of non-financial Bills I am prepared to modify the principle applicable to Finance Bills, but for only two purposes. First, the Second Chamber may have power to revise and amend non-financial Bills brought up from the Lower House, subject to the proviso that no amendment shall be made by the Second Chamber which is of a financial character. Secondly, the Second Chamber will have power to hold up, and to enforce so much delay (and no more) in the passing of a non-financial Bill into law, as may be necessary to prevent hasty action, or as may be needed to enable the opinion of the electorate adequately to be expressed upon it. In view of this, my answer to the question propounded in the sub-head dealing with non-financial Bills is that the Upper House should have the right to amend a non-financial Bill. If the amendments are accepted by the Lower House, well and good; but if they are not accepted, then the constitution should provide that, if a non-financial Bill is passed three times by the Lower Chamber in three different sessions of its life, it shall become law, notwithstanding the opposition of the Second Chamber. Lastly, I submit that these relations between the two Houses should be embodied in law, and should not be left to convention. That is all that

I have to submit.

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Dr. Ambedkar : Is it your view, Mr. Gavin Jones, that the Constitutions of South Africa and Australia have defined the relations between the two Houses in the manner in which they have done because of the fact that they knew that they were drafting a Constitution for a Federal form of government ?

Mr. Gavin Jones: Yes, certainly.

Dr. Ambedkar: Then why is it that the Canadian Constitution did not lay down any rules regarding the relations of the two Houses ?

Sir Muhammad Shafi: Because the general rule is that the relations shall be the same as those of the House of Lords and the House of Commons.

Dr. Ambedkar: But the House of Lords and the House of Commons make a unitary government, not a federal government. I said this has nothing to do with unitary or federal form of government; and, if you will permit me to

proceed, I will say that the various Dominions made the relations of the two Chambers in their constitutions what they were as they found them existing between the House of Lords and House of Commons at the time when they made their constitutions. They were not drafting them either for federal or for unitary. The Canadian Constitution said—

Chairman: You must give Mr. Gavin Jones a chance to speak, Dr. Ambedkar.

Mr. Gavin Jones : All that I would say is that the Australian Constitution is a federal constitution.

Dr. Ambedkar: Certainly.

Mr. Gavin Jones: I will also say that Australia is one of the most democratic countries in the world.

Dr. Ambedkar: I quite agree.

Mr. Gavin Jones: If they found it necessary to have all these safeguards. I think that it is very advisable that we should have them in India.

Dr. Ambedkar: That is another matter. The point is whether Australia made the provision it did in this connection because it wanted a federal constitution. I say that they simply took their relations as they found them in England at the time that they drafted their constitution.

Twenty-eighth Sitting—23rd September 1931

HEAD I

(Strength and Composition of the Federal Legislature)

Dr. Ambedkar: I do not propose to say anything on sub-heads (i), (ii), (iii) and (v). I agree with what my friend, Mr. Joshi, said this morning upon all those points except in one respect. I am not wedded to any particular figure regarding the composition of the two Chambers. In my opinion, a given figure ought not to be our starting point. The figure ought to be the resultant of all relevant considerations. I may also say here that my sympathies are in favour of a larger Chamber, because I think that a Chamber, being a deliberative body, ought to be constituted in such a manner that all interests can find their place in it, without any particular interest having to be cramped into it.

There is one argument that has been brought forward against a large Chamber namely that our Chambers must be business-like. I think there is some force in that argument, but I do not quite understand how the strength of the Chamber has anything to do with its business character. I should have thought that the business character and despatch of a Chamber depended less upon the numbers of which it was composed, and more upon the Standing Orders and the rules of business that it had framed for itself. Consequently, I would not limit it by that consideration.

The point with regard to which I propose to speak in particular is subhead

(iv). Taking part (b) of sub-head (iv) first, it reads thus—

" To what minimum extent must the adherence of Indian States be secured in order to justify the initiation of proceeding of the Federal Structure Committee a Federal Constitution ? "

It seems to me, with all respect, that that is a question which ought to be addressed to His Majesty's Government. It is they who ought to tell us what number was, in their opinion, necessary before the Federation could be initiated.

There is one question, the veil from which has not as yet been lifted. We are all told that the Indian Constitution of the future must be a Federal Constitution : but no one has yet made it clear whether it is the view of those who assert that proposition that the entry of the Indian *States* is a condition precedent for the establishment of a responsible government in a federal form. It is a subject on which it is difficult for me to speak unless I know definitely what is the view of those who take their stand upon that proposition. If you wish me to answer that question, then I will do so for myself: and my answer is that we need not wait for the adherence of any prescribed number of States for the initiation of the Federal Constitution. I do not know that there would be any British Indian who would like to put the establishment of responsible government in cold storage until the Princes make up their minds to enter into the Federal Government of India. I therefore think that all that we need do for the initiation of the Federal Government of India is to put a clause in the Constitution to permit His Majesty, by Order in Council, to admit new States as they desire to come into the Federation. This is not something which is new. Such an arrangement finds a place in the Canadian Constitution, Sections 146 and 147, and in the Australian Constitution, Sections 121 to 124. The Canadian Constitution, Section 146. provided that, in the case of other units, which were not included in the Federation at the time when it was formed, in 1867, and which thereafter showed their willingness to enter into it. His Majesty could, by Order in Council, admit them as units of the Constitution. I think that it would be sufficient for our purposes to initiate the Federal Constitution with a clause of this sort. This would be consistent with the freedom of the Princes to enter or not to enter the Federation.

Coming to (a) of sub-head (v), we have had the suggestion from His Highness The Maharaja of Bikaner that the States joining the Federation, whether one or all or a few, should be entitled to exercise the whole of the voting strength that is assigned to them. In all humility, I submit that that is a proposition which to my mind is an astounding proposition. It is a proposition, if I may say so with due respect, without rhyme or reason. No justification has

been made out for what I may call an extraordinary proposition of this character. What does it mean ultimately ? It means this— that a single Prince coming into the Federation and taking part in legislation affecting the destinies of subjects of British India, will be able to throw in, in his voting capacity, the whole of the power of the Native States, without the British Indians participating in the Legislature having any right to do anything to affect the destinies of the subjects of those Princes who do not choose to come into the Federation. It is a terribly one-sided arrangement. A Prince who chooses to keep outside the Legislature will, under this provision, be able to acquire and transfer his vote to a neighbouring Prince or his colleague and give him the power to affect the destinies of British India. That, I submit, is something which is without justice and without equity in it, and it is something to which I, for myself, can never consent. The only right thing and the only proper thing would be that the voting strength of such Princes as would be willing to come into the Federation should be confined to the particular quota of votes that will be assigned to them under the arrangements proposed by Sir Mirza Ismail. If a single Prince comes in, and if he has one representative, he will be entitled to one vote. If groups of Princes come in, and under the system proposed by Sir Mirza Ismail the group has got two votes assigned to it, the group will have to come as a group and will not have the power to exercise more than its two votes. The other arrangement would be one to which I, at least, would be unable to give my consent.

Thirtieth Sitting—25th September 1931

HEAD 4

(Distribution of Financial Resources between the Federation and its Units)

Dr. Ambedkar: I attach a very great deal of importance to the point which has been raised by Sir Muhammad Shafi. I hope that you will provide us with an opportunity, at least later on, to discuss this question— whether this recommendation made by the Federal Structure Sub-Committee of the division of subjects into " Central " and Federal should be incorporated in the Constitution. Another point which I would suggest for your consideration is whether it would not be proper first to consider that subject, and then to refer this matter to the Finance Sub-Committee, or whether you should have the Finance Sub-Committee and then consider this matter afterwards. That is a matter for your consideration. I should have thought that it would be much better for us to come to some conclusion, one way or the other, whether we retain this dichotomous division in the constitution, or whether we had not better hand over those subjects to the Sub-Committee for consideration.

Thirty-fourth Sitting—14th October 1931

HEAD 4

(Distribution of Financial Resources between the Federation and its Units)

Discussion on the Report of the Federal Finance Sub-Committee

Dr. Ambedkar: My Lord Chancellor, we have heard the debate that has been going on for the last two days on the Report of the Finance Subcommittee, and I am afraid that the debate has become somewhat wearisome and tiresome. I should not have intervened in this debate at all if I had not found myself in disagreement with the majority of the recommendations made by the Sub-Committee.

The first problem with which the Sub-Committee has dealt is the problem of the division of resources between the Federal Government and the Units : and, in making the recommendation which the Sub-Committee has made, it has proceeded upon certain principles applying to the division of resources as between the Federal Government and the Units. Those principles are referred to in paragraph 8 of the Report, and there it is suggested that a proper system of allocation of revenues between the Federal Government and the Units would be that " indirect " taxes should go to the Federal Government and " direct " taxes should go to the Units. Now, that is a principle to which I venture to take exception: and the first thing that I would say is this, that this is something which has no foundation in precedent at all. I have examined with much care the constitutions of most of the Federal Governments, and I find that there is no authority for the principle which has been enunciated in paragraph 8 of the Finance Subcommittee's Report. Take, for instance, the Constitution of Canada, Section 91 and Section 92. There the scheme laid down is that the Provincial Governments in Canada are restricted to what are called " direct " taxes, but the Central Government is not restricted to " indirect " taxation. The liberty of the Central Government to have either a " direct " tax or an " indirect " tax is kept intact in Canada. If you take the Australian Constitution, Sections 86, 69 and 90, you will see that the same result is arrived at, although by a different method. These sections provide that the States shall not levy Customs and Excise. Of course, from that it does not follow that the Central Government in Australia can levy only Customs and Excise. There again the liberty of the Central Government in Australia to levy " direct " taxation is preserved intact. The Sub-Committee has made a reference to the fact that the system which it described in paragraph 8 of the Report prevailed in the United States until the 16th Amendment to the Constitution was passed in 1913. I beg respectfully to submit that that is an error. The United States Constitution, even as its very inception, never laid any limitation upon the power of the Central Government in the United States to levy " direct " taxation. If you refer to Article I, Section 2, of the United

States Constitution, you will find distinct provisions stating that the Central Government in the United States shall have liberty to levy "direct" taxation. The only limitation that was put upon the authority of the Central Government in the United States to levy "direct" taxation, was that "direct" taxation, if levied at all, was to be apportioned amongst the various States according to population. The only provision that was made by the amendment of 1913 was that this limitation upon "direct" taxation on the part of the Central Government—namely, apportionment according to population—was abolished. But the right existed from the very start. Not only so, but it was exercised in 1864 by the United States, 40 and also in 1894. The only country which had for some time a system, which was in accordance with the proposition enunciated by the Committee, was Switzerland. There the Central Government was entirely dependent upon "indirect" sources, while the Cantons had the power to levy "direct" taxation. But I do not suppose that any member of this Committee would really be so bold as to draw a moral from the experience of Switzerland for the purposes of the Indian Federation. There would be no purpose in comparing. if I may say so, chalk with cheese. And, even there, the Swiss Constitution had to give up this system in 1915 and permit the Central Government to levy "direct" taxation on the citizens of the State. Consequently, in so far as this proposition is going to serve as a direction to the Expert Committee that is to be appointed, I am unable to give my concurrence to it.

Coming now to the actual division of resources proposed by the Subcommittee in paragraph 10, of course, the only test that would be applied to this allocation is the test of adequacy. Is the allocation made in paragraph 10 such as to give both to the Central Government and to the Units the necessary adequacy of revenue? Now, it is not possible to examine the scheme by that test, because—without meaning any offence to the Subcommittee—the Report is absolutely bare of the necessary Budget Estimates that one would have to have before oneself in order to say whether the allocation is adequate or not. The division seems to have been based on the assumption that the welfare functions are largely Provincial, and that therefore the Provinces must get expanding sources of revenue. That, of course, is true in the main, but, in so providing, it seems to me they have denied to the Federal Government both adequacy and elasticity in its fiscal system.

Take the revenue side of the proposals as contained in paragraph 10 of the Report of the Sub-Committee. You have first of all Customs as a source of revenue. Now, there are various factors on which the Customs revenue would be dependent. First of all, it would be dependent upon trade prosperity or

trade depression. In times of depression it is obvious that exports would be reduced, and also the consuming power of the people, and to that extent imports would also be reduced; and that would mean a direct reduction in the Customs revenue. Secondly, this source of revenue is largely dependent upon the particular kind of tariff policy that will be pursued in times to come. It may be that there may come into power in India a party which may believe in absolute protection, creating a dead wall against any imports of any sort from outside that are likely to compete with industry and products at home. If that happens—if imports are shut out by a policy of extreme protectionism—that would cut at the root of the Customs revenue. If, on the other hand, there comes a party in power which believes in free trade and no protection, that again will make the Customs revenue a very bare and slender source for the Federal Government to depend on.

And now, let us take the second source of revenue for the Federal Government—Opium. According to the Government of India's Despatch, I find the Government of India say that we shall lose all our revenue on Opium exports, which amounts to about 2 crores, but shall still retain a small sum of 10 or 15 lakhs from the sale of medical Opium. That shows how meagre is this source of revenue for the Federal Government.

The third source of revenue which has been assigned to the Federal Government by the Sub-Committee is the Salt-tax. Now, as we all know, this source has been a matter of contention and has been dragged into the vortex of Indian politics ; and, if the Congress Party had its way, this tax would vanish altogether. Now, apart from the question of whether the Congress would succeed in removing the tax altogether, it is absolutely certain that this tax, which is so intimately bound up with the standard of living of the ordinary masses of the people in India, can never be depended on to give a very large source of revenue to the Federal Government.

Lastly, you have the Corporation tax, which is suggested by the Sub-Committee as a source of revenue for the Federal Government. I am informed that its yield is somewhere about 3 crores, so that obviously it is at the present moment a source of very small dimensions. It seems to me that, if we agree that industrialisation is a very important thing for the prosperity of India, and if we further agree that, for industrialisation, the incorporation of capital is also necessary, then I am afraid that we cannot increase this tax to any very large extent, for fear of penalising incorporation.

This is what I feel regarding the revenue side of the Budget. Coming to the expenditure side, the Sub-Committee has proceeded upon the view that the Government at the Centre will have very little to do except to defend. I do not agree that that can be the view of the function of any government in modern

times. There was a time in history when people thought that the proper function of a government was to provide for nothing but anarchy plus the constable ; but I think we have changed. We believe that the government must provide the constable, but it must also provide welfare. It seems to me—this is my personal view. the view of other members may be different—that the Government at the Centre, for some time at any rate, will have to take upon itself certain welfare functions which to my mind are peculiar to India. I think, and I am going to propose elsewhere, that the Government at the Centre should take upon itself the burden of securing and helping, to some extent at any rate, the welfare of what we call the Depressed Classes. I want that the problem of the Depressed Classes, and the problem of removing Untouchability, should not hereafter be looked upon as a purely Local or Provincial problem. I want that it should be looked upon as a national problem in which the whole of India is interested. I want the Government at the Centre to take upon itself the duty of bringing the jungle tribes, which number probably as many as the Depressed Classes themselves, within the pale of civilisation. I want that Government to take upon itself certain functions in respect of what are called the " backward tracts". In other words, my submission is that the Government at the Centre should take at least such welfare functions upon itself as will guarantee what I call the minimum of civilised life to every individual and to every community.

"Then, again, there may be such afflictions as may affect the whole of India, or as may affect a particular Province and which yet may not be within the competence of that particular Province to deal with. Take, for instance, the curse of malaria. In some Provinces, it is a small malady. In some Provinces, I am told that it is eating into the vitals of the people. The Province may not be sufficiently strong, economically or financially speaking, to eradicate it. It may have to be treated as a national problem, and to that extent the national government will have to take a welfare function upon itself.

Again, the Sub-Committee does not seem to have taken into account the fact that, for certain peculiar reasons, apart from reasons which would be common to all the provinces, the Federal Government may have to give certain subventions, for instance, subventions to the North-West Frontier Province, for the peculiar burdens it may have to bear by reason of its special connection with Imperial problems. Similarly, new Provinces may come into being, and, in order that they may be sustained, the Federal Government may have to give them subventions.

Now, it seems to me that, if you take a broad view of the expenditure side, as I have tried to explain, and compare it with the revenue side as is proposed in this Sub-Committee's Report, it should not be at all an

exaggeration if I said that the fiscal system which is adumbrated for the purposes of the Federal Government will be such as will enable it to keep its nose just above the water in ordinary times; and even that may not be so. What is absolutely certain is that, with any gust of adverse wind, it will sink.

Now, take the provisions suggested by the Sub-Committee in paragraph 21 regarding emergency—¹ ought to say grave emergency. Now, the recommendation made by the Sub-Committee is that the Federal Government should have power to call for contributions from all the Units of the Federation. The question that arises in my mind is, is this a safe and a sure method? Is this a method which would be a dependable method in all circumstances? As regards the willingness of the Provinces to pay contributions in a grave emergency to the Federal Government, a view was expressed yesterday by an esteemed colleague. He said that, if the Provinces were to help the Federal Government in a grave emergency with contributions, then the Provinces should have the discretion in determining whether an emergency has arisen or not. Now, I do not think that that is a view that will be accepted by all; but that view is surely indicative of one thing—namely, that the Provinces will not be willing co-operators in meeting the deficit of the Federal Government in an emergency that may arise. Could the States be depended upon to meet their share of the contribution in an emergency? I have raised that question, but I do not know that I should give the answer. In any case it seems to me that it is not a dependable method. As to the solvency of the Provinces, we can be more or less certain. About the solvency of the States in an emergency, for emergency purposes, I, for one, could not be certain of that. Therefore, My Lord Chancellor, my conclusion is that, for the purposes of adequacy, for purposes of elasticity and emergency, the best course would be to widen and broaden the basis of the financial system of the Federal Government. Therefore, my proposal would be that the Income-tax should be treated as a common source of revenue both for the Federal Government and for the Provincial Governments, so that each Government will have the inherent right and authority to tap that source, whenever there is any necessity for it, without having to depend upon such contributions as are contemplated in paragraph 21.

Now, while I am dealing with this, I should like also to make certain observations as to the method of sharing this Income-tax. Before I do so, let me enunciate two propositions. The first is that in any allocation that we may ultimately agree upon between the Federal Government and the Units—I am speaking particularly of the Provinces of British India—we should so contrive matters that the Provincial finance shall be a self-contained system not dependent upon doles or upon contributions. Secondly, I should so contrive

the Provincial system of finance that it would not be destructive of that sense of responsibility which every Executive must feel towards its Legislature.

Chairman: Do I rightly interpret your remarks, that it would be most important to get all the Provincial matters into order as soon as possible ? I quite agree with your laying down a canon with regard to Provincial finance, and I gather you mean that all these Provincial questions should be settled as soon as possible.

Dr. Ambedkar: They should be. My submission, following these two propositions, is that I would not approve of such a division of the Income-tax as would permit the Federal Government to fix the rate of taxation and to divide the yield between the Provinces, and itself. I would allocate the basis of taxation, one base to the Federal Government, and another to the Provincial Government. I want the system recommended by the Taxation Enquiry Committee introduced so far as the division of the Income-tax is concerned. I should allocate " personal income " to the Provinces, and the rest of it to the Federal Government, and the rate on " personal income " should be fixed by each Province, and not by the Federal Government, according to its own necessity.

Thirty-fifth Sitting—15th October 1931

HEAD 4

(Distribution of Financial Resources between the Federation and its Units)

Discussion on the Report of the Federal Finance Sub-Committee

Dr. Ambedkar: My Lord Chancellor, yesterday I pointed out that the fiscal system devised by the Sub-Committee for the Federal Government appeared to me to be inadequate and inelastic, that it was not equal to the strain which was likely to be put upon it by reason of any emergency, and that it was necessary therefore to alter the allocation of the revenues proposed by the Sub-Committee by making the Income-tax a common source of revenue for both. I also said that, in devising a scheme of allocation of resources, two propositions ought to be kept in mind. One was that the system of finance, whether Federal or Provincial, should be autonomous and self-sufficing; and, secondly, that it must not impair the sense of responsibility which the Executive must bear towards the Legislature. It will be obvious that those subventions or contributions are inconsistent with an autonomous and self-contained system of finance. They are bound to impair the sense of responsibility in the Executive towards the Legislature, and they are likely to make the Legislature indifferent to the Executive. Power to refuse supplies and power to refuse appropriation of supplies already secured from outside, are not equally efficacious methods of controlling the Executive and bringing it

into conformity with the wishes of the Legislature. From this point of view, the problem of dividing sources of revenue becomes of immense importance. You may divide them in such a manner that the division will make each authority autonomous and self-sufficient, or you may divide them in such a manner that the fiscal system resulting therefrom would not be autonomous and could not be self-sufficient without adjustment by means of subventions and contributions.

In suggesting the particular method of dealing with the Income-tax as a joint head of revenue I have been guided largely by these considerations. There are two conceivable ways of dealing with the Income-tax as a joint source of revenue. First, you may adopt the method of what is called segregation of the source and division of the yield; and, secondly, you may adopt the method of appointment or partition of the source and division of the yield. Under the first method, the fixing of the rate will be within the exclusive jurisdiction of one of the two authorities, and naturally of the Federal Government. The Provincial Authority will only be a sleeping partner entitled to receive a share in the total yield of the tax. Under the second, both will have equal jurisdiction to fix their respective rates of Income-tax. A Province will fix its own Income-tax rate, to be operative within the Province; the Federation will fix an Income-tax rate, to be operative throughout the Units of the Federation. On the basis that the administration and the collection of the Income-tax shall continue to be a Federal subject of administration, my view is that the second method ought to be adopted as the means of allocating the revenue. This would not be very different from the system which prevails in France, Belgium and various other European countries. Under this scheme there will be two Income-tax rates : (1) a Federal rate, fixed by the Federal Government from time to time according to its needs ; (2) a Provincial rate, fixed by the Provincial Governments from time to time according to the financial requirements of each. The tax as a whole will continue, as now, to be administered and collected by the Federal Government.

The advantages of this plan are obvious. First, it will do away with the system of doles and contributions and will help to make the financial system of each Unit autonomous and self-sufficient. Secondly, it will maintain the sense of responsibility of the Executive by compelling it to obtain the consent of the Legislature for fixing its rate of Income-tax as a means of securing its supply. Thirdly—and this is very important, I think—one Province will not be taxed for the benefit of another. Under the other system of the segregation of the source, with its single Federal rate for all Provinces and a division of the yield, the amount raised in a Province will not necessarily be the same as its share in its distribution; some Provinces may be giving more and receiving

less. For these Provinces, such a system will be nothing else but a disguised method of taxing one Province for the benefit of another.

Now, the only objection that can be taken to the method I am suggesting arises from those who insist upon a uniform rate of Income-tax as being necessary for trade and industry. Uniformity of rate is, of course, something which is very desirable; but it is easy to exaggerate the importance of it. India is as large as Europe. There is no uniformity of Income-tax rate in Europe and yet trade and industry are going on as well as anywhere else. Why should it be otherwise in India ? Then again, those who insist upon uniformity in the rate of Income-tax have to explain how they can reconcile themselves to facts, such as they exist, regarding the Land tax in India. There is no uniformity there at all. On the contrary there is a bewildering variety of rates of Land tax. In no two Provinces are the rates the same, nor is the system of taxation in any two Provinces alike. This objection, therefore, must not prevail against the method of treating the Income-tax which I have suggested with a view—with due respect to members of the Sub-Committee—to improving the allocation they have recommended. It meets the needs of all concerned in normal as well as abnormal times.

There is one statement which I made yesterday which I would like to withdraw. I said that my plan was the plan recommended by the Taxation Enquiry Committee. That was a slip due to an error which had crept into the notes which I had made for this discussion. I ought to have said that they considered it; they did not recommend it, although they did not see any insuperable objection to it.

The next point relates to paragraph 12 of the Sub-Committee's Report, where the problem of " residual powers " of taxation is dealt with. The Sub-Committee has anticipated that the decision will be in favour of the residual powers being vested in the Provinces. They have made, on that basis, the recommendation that the power to levy unscheduled taxes should be in the hands of the Units. The Sub-Committee gives no reasons at all why it came to that conclusion, but there is a passage in paragraph 12 which states that the Sub-Committee sees constitutional objections to making any other recommendation than the one that they have made. From this it follows that the Sub-Committee's view is that, in any Federation, the residual powers of taxation must reside in the Units. Now, my submission is that this is not a necessary consequence of Federation at all. If you will refer to the Constitution of Canada, Section 91, paragraph 3, you will see that the powers of taxation given to the Central Government in Canada, which is admittedly a federal constitution, are not limited by any such proviso as enters into the recommendation of the Sub-Committee. The paragraph I have just mentioned

is the widest possible that can be conceived. It gives the most unlimited power that any Central Government can have in matters of taxation. But perhaps it might be suggested that I have taken a wrong example because, under the Constitution of Canada, the residual powers are with the Central Government and not with the Units. Let me take another example where the residual powers are left to the Units, namely, Australia, There the residual powers of taxation are not given to the Units but are left to the Federal Government. The Australian Constitution, Section 51, paragraph (ii), says that the Central Government shall have the power of taxation, but so as not to discriminate between States or parts of States. Now, that language again is the widest possible language that can be conceived; and it is even suggested that that power is so wide that the Federal Government in Australia can be said to have the power of controlling the taxation system of the States. Let me refer you to the Commentary by Moore on 'the Commonwealth or Australia,' of the first edition, where this point is dealt with. This is what he says with respect to the extent of the power of taxation given to the Australian Federation:

"It has been seen that, on the establishment of the Commonwealth, the States are subject to the restriction, that they may not tax the property of the Commonwealth; that perhaps this extends to the ' instrumentalities of the Commonwealth ' and that, on the establishment of uniform duties of customs, they may no longer impose duties of customs or excise, nor put any tax upon inter-State trade, commerce or intercourse. Further, discriminations injuriously affecting British subjects resident in other States are inoperative." What follows is very important : "Finally, it has been suggested that the Commonwealth Power to make laws with respect to ' Taxation ' may give very extensive powers of regulating taxation by the States."

This is a constitution where the residuary powers lie with the States, yet, in financial matters, the residuary powers are not with the States but with the Federal Government. Take the Constitution of the United States of America, Article 1. There again, the residuary powers of legislation are with the States and not with the Federal Government, yet Section VIII of Article I of the United States Constitution provides :

" The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States." There again, you do not find any limitation whatever placed on the taxing powers of the Central Government in the United States. I therefore do not see any substantial reason, so far as constitutional law is concerned, for the kind of recommendation that the Sub-

Committee has made.

My further submission, however, is that this question of whether the residuary powers of taxation should be with the Federal Government, or whether the residuary powers should be with the Provinces, is an entirely artificial question which has arisen in no other country. And the reason why it has arisen in India is because we have somehow introduced in our Devolution Rules of the present day a silly system—if I may be permitted to say so—of what are called schedules of taxation. This did not exist anywhere else and was never prescribed by any government or any constitutional authority that drafted a federal constitution. We are somehow not only dividing the spheres of taxation, but we are, by having these schedules, prescribing the particular method by which and the particular form in which, that power of taxation shall be exercised; I do not think that such a thing is at all necessary. First of all, it is going to stereotype the taxation system and is going to limit the ingenuity of future Chancellors of the Exchequer. I do not think that any Chancellor of the Exchequer would like to take upon himself the responsibility of managing a financial system in which his discretion was limited, not only in regard to his powers of taxation, but also in the choice of the particular taxes that he might levy.

My view, therefore, is that we should altogether delete from our constitution these schedules and simply divide the field of taxation by the method that is followed in other federal countries by putting a simple limitation on the Provincial Governments that they shall not make use of Customs or such Excises as the Federal Government chooses to impose, and leave the rest of the field for both Governments to divide in the way they like. That is exactly what has been done, as I say, in other federal countries; and I do not think, therefore, that it is at all necessary to introduce this principle of residuary powers of taxation in our constitution.

The next point I propose to deal with is the position of the States in Federal finance. When I turned to this part of the Report of the Subcommittee, the first thing I naturally tried to find out was what head of revenue has the Federal Government gained from the States as an addition to its financial resources. I find that there is no additional resource given to the Federal Government by the States. As to Customs, it is obvious that this revenue was never the revenue of the States to which they had no claim, and under which, therefore, they have taken no additional burden upon themselves. As to Salt, it is a revenue the right to which is vested in the Indian Government and not in the States by reason of the purchase. As to Currency profits, they are due to the credit of British India. Regarding cash contributions and revenue of ceded territories, these have been the sources of the revenue of the Central

Government, and would have been so even without Federation. It is obvious, therefore, that the States, by entering into the Federation, have surrendered nothing to which they can be said to have any rights. The only contribution that I see that they are making is in the form of a military force for the defence of India. Looking at the figure mentioned in the Report of the Committee which was appointed by the Government of India, I find that the total expenditure of this military force incurred by the States today is a paltry sum of 2 crores and 38 lakhs.

Another thing which I looked for in the Report was the comparative treatment accorded to the Provinces and the States in respect of the financial burdens of the Federation. When I saw this, I came to the conclusion that the Sub-Committee had thrown the principle of equality of burden to the winds. Just see how this inequality runs through the whole Report. First the Provinces are to bear both the " direct " as well as the " indirect " taxes of the Federal Government. The States are to bear only " indirect " taxes. The Committee does not even insist upon their accepting the Corporation tax. Not only are they not to bear " direct " taxes, but they are to be relieved of such " direct " taxes as they do bear at present, such as tributes and cash contributions. Secondly, the Provinces are prohibited from levying internal Customs, but the States are allowed to retain intact their right to levy those Customs, although it is admitted by the Sub-Committee that one of the objects of the Federation is to have freedom of commerce throughout the Federation, and although the Committee recognises that the continued maintenance of the right of the States to internal Customs is likely to impinge upon Federal receipts. Thirdly, the Provinces are required to pledge their revenues as a security for Federal loans; but the States, although they are to be Units of Federation just as much as the Provinces, are to be free from the burden of this obligation.

One can quite understand the reasons for allowing the States the right to retain their internal Customs. One can see that, if they are compelled to take off internal Customs all at once, it will disarrange their financial stability. But one cannot understand why the Sub-Committee should have allowed the States the freedom from bearing direct burdens of the Federal Government, nor can one understand the reasons which led the Subcommittee to recommend that the States should not be required to pledge their revenues in support of Federal loans.

Now, Lord Chancellor, in ceremonial matters a discrimination between the Provinces and the States may be permitted. We may refuse to ourselves the honour of the salutes, and we may let the States have what they want in respect of that; but when it is a matter of the purse, I think we ought to follow

the maxim that " business is business ". If British India is making a sacrifice in the interests of Federation, it has an equal right to call upon all the other Units to make equal sacrifices in the interests of Federation; and I therefore urge that the following amendments to this part of the Committee's Report be made : —

(1) That the States must accept the right of the Federal Government to " direct " taxation. Until this is done there should not be remission of cash contributions and no consideration of ceded territory.

(2) A time limit should be fixed within which the States should be required to abolish their internal Customs by an appropriate change in their fiscal system which shall not injuriously affect the fiscal system of the Federal Government.

(3) The States must be required to pledge their revenues as security for Federal loans. That is all I have to say. Lord Chancellor, on this matter.

Thirty-eighth Sitting—22nd October 1931

HEAD 4

(Distribution of Financial Resources between the Federation and its Units)

Discussion on the Report of the Federal Finance Sub-Committee

Dr. Ambedkar: I should just like to say one thing. Lord Peel said just now that there was general agreement regarding the principles enunciated in the Report of the Federal Finance Sub-Committee. Now, whatever may be the view of the other members of the Federal Structure Committee, I should for myself like to make this reservation, that I certainly do not agree with the principles enunciated by the Federal Finance Sub-Committee ; and I should for myself like to say that I have no objection to the appointment of this Committee, provided it is distinctly understood that the Committee has a right to suggest alterations and amendments of the principles, in order that the future financial system for the Federal Government may be a sound system.

HEAD 8 (*The Federal Court*)

Dr. Ambedkar: Lord Chancellor, it seems to me that, in considering the establishment of a Federal Court in India, there are three questions with which we are mainly concerned. The first question is the jurisdiction of the Federal Court; the second, the enforcement of the judgements and decisions of the Federal Court; and the third, the organisation of the Federal Court. I propose to offer a few remarks on each of these heads, and the first head that I propose to take for consideration is the jurisdiction of the Federal Court.

It is an accepted proposition that one of the functions of the Federal Court is to interpret the Federal Constitution. The distinguishing feature of a Federal Government, as contrasted with a unitary system of government, is that there is, in a Federal Government, a division of functions which constitutes the essence of Federation. There are two spheres, one allotted legally to the

Federal Government and another allotted to the State or the Provincial Government; and the important thing in a Federation is to see that the one does not interfere in the sphere of the other. In order to see that there is, of course, the evident necessity of a Federal Judicature which will keep the two governments restricted to the spheres allotted to them. That is one purpose for which a Federal Court is necessary. But it seems to me that there is also a second purpose which a Federal Court of Judicature must perform. The Federal Court of Judicature is also what may be called a Court of international justice. One of the objects which has led many national governments to form a Federation is to see that disputes between different governments and different units which before the formation of the Federation, used to be decided by diplomacy, or by war, failing diplomacy, should be decided by judicial decisions of a Federal Court, to which they are all subjects. That is the view taken by the Supreme Court of the United States of America itself; and, with your permission, I would just like to read a small paragraph from one of the judgements of the Supreme Court of the United States of America reported in *Louisiana v. Texas*, 176, U.S. *Chairman*: What is the date of that ? *Dr. Ambedkur*: 1900. This is what Mr. Justice Brown said regarding the function of the Supreme Court:

" In view of the solicitude which, from time immemorial States have manifested for the interests of their own citizens; of the fact that wars are frequently waged by States in vindication of individual rights, of which the last War of Independence, the Opium War of 1840 between Great Britain and China, and the war which is now being carried on in South Africa between Great Britain and the Transval Republic, are notable examples; of the further fact that treaties are entered into for the protection of individual rights, and that international tribunals are constantly being established for the settlement of rights of private parties—it would seem a strange anomaly if a State of this Union, which is prohibited by the Constitution from levying war upon another State, would not invoke the authority of this Court to raise an embargo which had been established by another State against its citizens and their property. An embargo, though not an act of war, is frequently resorted to as a preliminary to a declaration of war, and may be treated in certain instances as a sufficient *casus belli*."

He goes on further to point out that there are many cases which may arise under a Federation which, in the event of the absence of Federation, would be decided by diplomacy or war; and the Federal Judicature, therefore, in order to prevent such a catastrophe, must make ample provision for a wide jurisdiction of the Federal Court which would enable it to give justice in all such cases. Taking that standpoint. Lord Chancellor, I think that the scheme

which was adumbrated in the observations which you were kind enough to address to the Committee the other day, regarding the jurisdiction of the Federal Court, is somewhat inadequate, if you pardon my saying so.

According to the observations which you made the other day, the judicial power is to extend to matters arising between Units of the Federation, State *versus* State, Province *versus* State, and the Commonwealth of India *versus* a State or a Province. I do not know whether the word " State " is used to refer to an incorporated body or to the State in its position of trustee, guardian or representative of the citizens. But, apart from that, it seems to me that the Federal Judicature must make provision for matters arising between one Unit and a citizen of another Unit. Take this case. Assume, that an Indian State, which becomes a Unit of the Federation, borrows money through the contemplated Loans Board in the open market. Assume, further, that a resident of the Province of Bombay subscribes to that loan ', and assume that the State fails to meet its obligation. What is the remedy ? Under the scheme, I do not see any provision made for the Federal Judicature to take due cognizance of a matter of this sort. Take another illustration. We have what are called the ceded territories in the possession of the British Government. The States are demanding that these ceded territories shall be returned ', or, if they are not returned, certain compensation shall be given to them. Suppose that in a ceded territory, the British Government has made a grant of land to a certain individual, and suppose that, after the rendition of the territory to the Indian State, the State Ruler also makes a grant of the same land to another individual. You have here a case where there is one subject matter of the same grant made by two different authorities to two different persons. What is the remedy for the adjudication of a dispute of this sort ? Is the Federal Court going to take cognizance of it or not ? Again, take the case of two persons between whom there is litigation, but who reside in different Units of the Federation. Which is the Court which is going to take cognizance of the case ? These are some of the matters which, I find, are not provided for in the observations that you addressed to us the other day.

Comparing the constitution suggested in your scheme for a Federal Court in India with the jurisdiction of the Federal Courts in Australia and in the United States of America, I think the scheme entirely falls short of the necessities of a Federal Government. In Australia, under Section 75, the Australian High Court has jurisdiction in all matters (1) arising under any treaty, (2) affecting the consuls or other representatives of other countries, (3) in which the Commonwealth or a person suing or being sued on behalf of the Commonwealth is a party, (4) between States or between residents of different States, or between a State and resident of another State, and (5) in

which a writ of mandamus or prohibition or injunction is sought against an officer of the Commonwealth. According to Section 76, it can also have jurisdiction with regard to matters (1) arising under the constitution or involving its interpretation, (2) arising under any laws made by the Parliament, (3) of admiralty and maritime jurisdiction, and (4) relating to the same subject matter claimed under the laws of different States. Turning to the Constitution of the United States, Article 3(2), the judicial power of the United States is said to extend (1) to all cases in law and equity arising under the constitution, the laws of the United States, treaties made or which shall be made under their authority; (2) to all causes affecting ambassadors or other public ministers and consuls; (3) to all cases of admiralty and maritime jurisdiction; (4) to controversies to which the United States shall be a party; (5) to controversies between two or more States; (6) to controversies between a State and a citizen of another State (which of course subsequently has been abrogated by the eleventh amendment of the constitution); (7) to controversies between citizens of different States ; (8) to controversies between citizens of the same State claiming lands under grants of different States ; and (9) to controversies between a State or the citizens thereof and foreign States' citizens or subjects. My submission therefore is that, if this Federal Court is going to be federal in the real sense of the word—that is to say, if it is going to cover all cases of dispute between Units of the Federation or between citizens of the different Units—then the list must be revised and must be brought into conformity with the federal jurisdiction that has been given in countries like Australia or the United States.

Now, the next point that I wish to submit. Lord Chancellor, is this--that although India is going to be a federal country, yet India cannot be satisfied with the extent of jurisdiction which the Federal Courts in countries like Australia and the United States have at present. There are certain peculiar circumstances about India which do not obtain in those countries. Consequently, my submission is that the federal jurisdiction of the Federal Court in India must not only be in conformity with the federal jurisdiction of the Federal Courts in Australia and the United States, but it must have federal jurisdiction in matters relating to fundamental rights and the minority safeguards.

Chairman: Will you refer me to the fundamental rights clause in the U.S.A. Constitution ?

Dr. Ambedkar: Yes, I will.

Chairman: Just tell me where it is, if you do not mind. I know it so well, but at the moment I cannot put my hand on it.

Dr. Ambedkar: I am sorry. I have not got it.

Chairman: I was thinking of the clause which began about the privileges and immunities of free citizens in the various States—about the people of each Province and State having free ingress and egress, and that sort of thing. However, we will not waste our time because I cannot put my hand on it at the moment. Section 2 of Article IV is the one I was thinking of.

Dr. Ambedkar : My submission is this—that whatever may be the manner in which we define the fundamental rights, or whatever may be the manner in which we define minority rights, the important problem is to see that they are properly safeguarded. My reasons are these. The Federal Constitution which we are going to have is not going to be, with all the protests that some of us are making, a perfect Federation. We shall have probably a Federation between British India, with all the popular and representative institutions, and the Indian States with no popular and representative institutions in them. I am only imagining. Probably the results may be otherwise; and, if so, nobody will be more happy than myself. But we shall have this situation, namely, that of a federation between a democracy and an autocracy; and we shall have, as I say, within British India, a government not of political majorities, but a government in the main of communal majorities. My view, therefore, is that the question of the protection of fundamental rights, and the question of the protection of minority rights, assume far greater importance in India than it can assume in any other constitution; and the duty absolutely to guarantee the fundamental rights, whatever they are, and the minority rights, whatever they are, becomes paramount. The best way of doing this seems to me to be to endow the Federal Court with a jurisdiction to hear matters arising out of them. That is my submission. Everywhere, whether a question arises regarding fundamental rights or minority safeguards, whether in British India or in a Native State, the Federal Court must have jurisdiction to hear them.

Chairman: Would you include cases of commercial discrimination ?

Dr. Ambedkar: Yes. If we all agree that it should be a fundamental right that there shall be no commercial discrimination, then it should come within the jurisdiction of the Federal Court, so much with regard to the jurisdiction of the Federal Court.

The next point that I wish to touch upon is with regard to the enforcement of the decisions of the Federal Court. The note which you have been kind enough to circulate. Lord Chancellor, does not suggest any legal measures for the enforcement of the decisions of the Federal Court. The matter, I understand, is to be left to the different States and to the different Provinces; and you rather give us the admonition that we must not distrust the *bona fides* of the Provinces or the States, and that we must assume that they will faithfully abide by the decisions of the Federal Court and give effect to them.

Now, Lord Chancellor, I feel that we ought to follow the maxim which John Stuart Mill laid down, that if all men were good there would be no necessity for making laws; but that we are obliged to make laws because we know that certain people are bad. So I rather take the view that the matter should not be left in this undecided manner and I say this, that I am strengthened in the attitude that I take up by the experience of the Supreme Court in the United States. If you will pardon me, I propose to draw the attention of the Committee to the history regarding the enforcement of the judgements of the Supreme Court. I should like first of all to draw your attention to the case of *Chisholm v. Georgia*, decided in 1793. The Supreme Court, under the federal jurisdiction which it had, granted a decree in favour of Mr. Chisholm for the recovery of a certain debt against the State of Georgia. But, as history shows, the State of Georgia rose in arms against the Supreme Court, and refused to honour the decree on the ground that it was an affront to a sovereign State, and the judgement of the United States Supreme Court remained in abeyance — it was not executed. So much so, that it was this attitude of the State of Georgia which led to the eleventh amendment, which took away the federal jurisdiction given to the Supreme Court of the United States as between a State and a citizen of another State. Another illustration is the case of *Virginia v. West Virginia*. After the Civil War there was a partition of the old State of Virginia into two States, Virginia and West Virginia. This occurred in 1861, and, as a part of this agreement, West Virginia agreed to pay a just proportion of the Public Debt incurred by the parent State prior to January 1st, 1861. This obligation was reaffirmed in the eighth article of the West Virginia Constitution. For forty years, Virginia did all in her power to induce, by friendly negotiation, West Virginia to settle the claim. All this proved unavailing, and, in 1906, Virginia took the matter to the Supreme Court of the United States. West Virginia proved most obstructive, and first of all refused to submit to the jurisdiction of the Supreme Court. It took objection from 1906 to 1911 merely to the jurisdiction of the Supreme Court. Then, when the Supreme Court decided that it had jurisdiction, the Supreme Court appointed a Master to go into the accounts and to prepare a report. A report was prepared, and then again West Virginia took some three years in challenging that report. After that she asked for time for her Legislature to consider whether the obligation should be honoured. That dragged matters on until 1913. Then she asked for time to file a supplementary written statement after the report had been made and objections over-ruled. In 1915, all methods of obstruction having failed, the Court pronounced judgement. For four years, West Virginia refused to look at the judgement, but in 1919 she was persuaded to honour the debt.

Mr. Jinnah: Assuming that difficulty do exist, what do you suggest ?

Dr. Ambedkar: My suggestion is this. I must tell you that my feelings on the subject are really rather high; and I do say this, that for a long time to come there will be communalism and there will be provincialism, and I am not at all certain that, in all this turmoil of communalism, the judgements of the Supreme Court or the Federal Court—whichever you like to call it — are not likely to be flouted. As a member speaking for a minority, and as a member speaking for a minority which at present has no rights and which is claiming rights and which meets with opposition in every centres, I am not at all certain that a Provincial Government, backed by a communal majority in the Council, will readily consent to give effect to judgements and to decrees which may not be palatable to its own interests. This is my position. I take a very serious view of the matter and I do say that. Therefore, My Lord, I would suggest that we ought to make provision in the constitution that judgements and decisions of the Supreme Court shall have effect given to them, and I suggest that we should follow and adopt the provisions that are entered in the Australian Constitution. First of all. Sections 118 and 51, paragraph 25, of the Australian Constitution provide, of course, that faith and credit shall be given to all laws. That of course is nothing. It is found also in the Constitution of the United States. Then, with regard to the execution of decrees, you have in the Australian Constitution, under paragraph 34, power given to the Federal Legislature to legislate about matters which are incidental to other powers which are given to it. Then you have certain specific powers given in the Australian Constitution to the Central Government, for the enforcement of decrees and decisions. There is first of all Section 51, paragraph 24, whereby provision is made for inter-State service and execution of judgements as between States, the service and execution throughout the Commonwealth of the civil and criminal process and the judgements of the Courts of the States. That is one thing. Then you have Section 78 in the Australian Constitution —

Chairman: " The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power."

Dr. Ambedkar: Yes, that is one; and as Your Lordship knows, by the Judicature Act, 1903, Part 9, the Federal Legislature in Australia has made definite provision as to how judgements and decrees shall be executed against the States. Then you have Section 120 of the Australian Constitution—

"Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences and the Parliament of the Commonwealth may make laws to give effect to this provision."

I therefore submit that some specific power ought to be conferred upon the Federal Legislature whereby it can enforce the decisions of the Federal Court.

Chairman: What sort of sanction are you thinking of ?

Dr. Ambedkar: I do not know what they would do; but my submission is that the matter should not be left hanging in the air in this fashion. I was going to show Your Lordship, from certain extracts I have made, that judgements of the Supreme Court of the United States have been absolutely worthless by reason of the fact that they were obsessed by the fact that their judgements may not be executed but may be flouted. In one case, for instance, in the case of a Governor of Ohio State, they did make an order that a certain fugitive offender who had gone into the State of Ohio should be delivered by the Governor. The Governor refused to do so. Then the State of Kentucky asked for a writ of mandamus. The Court said : The Constitution does not give us power to execute our judgement; therefore we shall not give a writ of mandamus. That was so, although they had given a decision that the Governor was bound to deliver the fugitive. I could cite hundreds of cases in which the Supreme Court of the United States has refused to give relief simply because it was oppressed by the feeling that its judgements might not be enforced. Unless we have some sort of provision of this sort, I cannot see how the situation will be rendered safe

Chairman: What sort of legislation ? Are you suggesting, for instance, that, if judgement was given against Bengal, you should put a bailiff into Bengal in some way ?

Dr. Ambedkar: I mean what I find in Section 78, that in the execution of civil decrees the Treasurer or the person who is in charge of the Treasury shall be bound to pay.

Chairman: Supposing he does not, what happens ?

Dr. Ambedkar : I suppose they will haul him up for contempt.

Sir Maneckjee Dadabhoy : Where will he be tried ?

Dr. Ambedkar: By the Federal Court, wherever it states.

Mr. Iyengar : Who is to execute the warrant of contempt ?

Dr. Ambedkar: The Federal Government by its own officers. I want the Federal Government to have that power. This was one of the implied powers in the United States; and under Section 120 of the Australian Constitution, the Federal Government has the power to detain offenders against the federal law. Supposing a federal law was passed and a certain citizen of a State abrogated it and the Supreme Court passed judgement against him, and the feeling of the State was so great that they would not keep the man in jail, I suppose, under the power given in Section 120, the Federal Government would have its own prisons. If the Federal Government is to see that justice is

done in all matters, it must have the power to see that judgements are executed. How it will do that is a matter beyond me to say now. All I say is that power should be given in the constitution to the Federal Government to see that judgements and decisions are made effective throughout India. It is not necessary for me to repeat that, if the remedy fails, the right also fails.

Mr. Jayakar: If a state of racial or communal warfare should prevail, no remedy can be devised which may not become futile.

Dr. Ambedkar : It is not for me to answer that. I will take my own case. Suppose, in the Bombay Presidency, we have a Nasik Satyagraha, and suppose we have a fundamental right, which I claim in the first part of this Memorandum which I have submitted, namely, the right to enter the temple. Suppose the magistrate passes an order saying that we are creating a breach of the peace, and that, unless we desist from doing it, we shall be imprisoned. Suppose we go to the Federal Court under the jurisdiction which I say the Federal Court ought to have, and the Federal Court says that the magistrate was wrong. Suppose we come back to the Home Member for the execution of the order. The Home Member, if he is depended on the majority of the orthodox people, will say " I cannot do it." I want the Central Government to have some power to make its laws effective under such conditions.

Mr. Jinnah: I think there is a great deal of force in what you are saying—that in order to execute a decree or a warrant it must be backed up in the first instance by the Police, and, in the second instance, the final authority is the Military. How would you expect the member of your Federal Government in charge to execute that decree or warrant unless he had resort to the Military ?

Dr. Ambedkar: He may have. I am not putting any limitation upon him. I would give him the power that he thinks will be necessary for the purpose. It may come to that. I do not deny it; but what I say is this, that if you want to make sure of the protection of the people under the fundamental rights or under the minority rights, whatever they are, then I say the power must be vested, and for all purposes I say that the power must be vested in the Federal Government, to see that the decisions of the Federal Court are executed.

Mr. Jinnah: It is not only that the power should be invested, but there must be an instrument in their hands to enforce that power.

Dr. Ambedkar: Under this they will have the instrument.

Mr. Jinnah: Power may be vested in the Federal Government, but that power can only be enforced if you have the instrument to enforce it.

Dr. Ambedkar: The Army.

Mr. Jinnah: Quite right; and therefore what the Lord Chancellor has suggested is — and I think you have omitted to take notice of that — that, in

the last resort, it will be the Crown who will be responsible for the enforcement of decrees and orders of the Federal Court. And it is stated there that the Crown will be responsible, because I understand upto the present moment that the position is this, that Defence is going to be a Crown subject. Am I right, Lord Chancellor ?

Chairman: Yes. That is the point.

Dr. Ambedkar : But the point I am making is this, that if you are dividing functions between, the Federal Government on the one hand and the Provincial Government on the other hand, then if you do not give the Federal Government the power, legislative or otherwise, to give effect to the decisions of the Supreme Court, it would not be able to do it. That is my submission.

Mr. Jayakar: But, at the same time, the difficulty will not end there. I mean, in the state of communal feeling which you are imagining, the difficulty will not end there.

Dr. Ambedkar: I quite agree that far more drastic measures will probably have to be adopted, and, as we know, in the Swiss Confederation even the military is used—at least, the power is given to the Swiss Federal Government to use the military for enforcing the judgement of the Federal Court in Switzerland. I do not wish to prescribe what means should be adopted, but what I say is this. The difficulty which arise in the United States, that the Federal Government had no power.

Chairman: I quite follow. Therefore, they would not take responsibility.

Dr. Ambedkar: Yes. That ought not to be the situation in India.

Lord Lothian: Is not there this distinction in America that the Federal Authority is able to proceed as long as it is against an individual; but this very question came up in the Convention, and they decided that the Federal Government could not proceed against a State, because one State can only proceed against another by an act of war, and they, therefore, did leave it to the good sense of the community to bring pressure on the State to fulfil the obligations. You can provide upto a certain point in dealing with the individual, but you cannot provide within a Federation for the proceeding of the Federal Government against a State Government except by embodying an act of war as part of your constitutional procedure; and that nobody will do. That is your difficulty.

Dr. Ambedkar: Well. I do not know; but, as I say, in the United States also the President has the power to use the military for suppressing rebellion.

Lord Lothian: And that becomes an act of war, and that has happened in the past

Dr. Ambedkar: That provision is embodied in the United States Constitution.

Mr. Jayakar: But, surely, the choice will lie between civil war and federal

loyalty?

Dr. Ambedkar: That I perfectly realise. I am not denying the point that you are making. What I say is this, that we should not have the position that we have in the United States—that although there is a Federal Court there for the purpose of deciding disputes arising out of federal jurisdiction, there is no power in the Federal Government to make those decisions effective. What I mean is that our Federal Government or Federal legislature should have such a power in the way in which the Australian has it.

Mr. Jinnah: The distinction is this, that in the United States the Federal Government is in charge and control of the military. You assume that your Federal Government which you are proposing should take over the control and responsibility for the military at once.

Dr. Ambedkar: Well, if not now, later on.

Mr. Jinnah: What is to happen in the meantime ?

Dr. Ambedkar: As I said, that is another matter. The necessity for the employment of the military may not arise.

Mr. Jayakar: You will have to go to the Crown to ask for military help.

Dr. Ambedkar: Yes.

Mr. Jayakar: The Crown is the ultimate military authority.

Dr. Ambedkar: I do not think that takes away the point that I am making. The power ought to be given to the Federal Legislature. In the United States of America, people have been hanged by the States, although a writ of error has been issued by the Supreme Court.

Chairman: I have heard it said, with regard to English Common Law, that it is no use pulling up a plant repeatedly to have a look at the roots and to see whether it is growing. English Common Law will not stand that sort of thing, and you will find that no code of law will. You are putting very interesting legal conundrums; but the short answer is that anybody can make a thing unworkable, and it is no good always diving into the foundations to see if the foundations are all right. You must trust a good deal to the good sense of the people. It took about nineteen years in the Virginia case for people to come to a proper view. You may find that that may happen in your case. There may be these difficulties at first; but when you begin to work together, you will find a great many of them disappear. You cannot dig down to the foundations of your house every three weeks to see whether they are in order. You must trust people a little.

Dr. Ambedkar: My only reply is that we must see we do not lay our foundations on sand.

Coming to the third part of the subject, namely, the organisation of the Federal Court, I do not really want to say much on this because I agree with a

great deal that has already been said. I should like, however, to make one observation, namely, that we should follow in this matter the Australian model, in so far as by that we should not only be able to get a Federal Court of Appeal for federal matters, but also a Supreme Court of Appeal for India as a whole, as they have done in Australia, whereby the Federal Court not only hears appeals from Courts which exercise federal jurisdiction but also hears appeals from Courts in matters which are outside the federal jurisdiction.

I would particularly point out that the Federal Legislature of India should be left free to invest the Courts in Indian States with federal jurisdiction, so that it may be able to utilise the agency of the State Courts in the Indian States. Federal jurisdiction should not be delegated merely to the High Courts of the Provinces, but certain selected State Courts, which to the knowledge of the Federal Legislature are functioning efficiently, may also be selected as agencies for the exercise of federal jurisdiction in certain matters. The result of that, I think, will be very important. It will first of all raise the dignity of the State Courts; and, secondly, it will link up the State Courts with the whole judicial system in India, and will make our Federation a real Federation.

Mr. Jayakar: An appeal must lie to the Supreme Court, the Federal Court ?

Dr. Ambedkar: I am coming to that. In that connection, what I would suggest is that the State Courts should consent to send their appeals to the Federal Supreme Court even in matters not affecting federal jurisdiction. If they do not, I suggest that we should keep the same open-door policy which has been adopted in the Australian Constitution. In the Australian Constitution, provision is made that the Federal Court or the High Court of Australia shall not be prevented from hearing appeals from the States' Courts. I would like to have that provision introduced into our constitution. Further, although we may not make it obligatory upon the States' Courts to send their appeals to the Federal Court, we should prevent the Federal High Court from hearing appeals in case the States subsequently decide to give appellate jurisdiction to the Federal Court from their decisions. As I say, I would again follow the model of the Australian Constitution by giving to the States the right to regulate the right of appeal from their Courts to the Federal Courts. They may not give the same rights of appeal as there may be from British Provinces; they regulate it if they like.

Then there is just one thing I would like to say. That is with regard to the relation of the High Court to the Federal Government. At present the Indian High Courts are Provincial both for finance and for administration, except the High Court of Calcutta, which is, of course, Provincial for finance but Central for administration. Sir Tej Bahadur Sapru yesterday made the suggestion that the Indian High Courts should be Central for administration in all Provinces,

and for financial purposes should be Provincial. As regards the suggestion by Sir Tej Bahadur Sapru that they should be Central for administration, I entirely agree with him; but my reasons are somewhat different, and I should like to state them. He said there was a certain amount of nervousness on the part of Judges of the Indian Provinces that they are likely to be subjected to local political pressure, and that they would, therefore, like to be lifted from the local politics to the control of the Federal Central Government. Now, I do not think the High Courts in any country, for the matter of that, where there is representative democracy and responsible Government can be free from the influence of politics or the influence of party politicians.

Sir Tej Bahadur Sapru: I thought the theory of the law is that the English Courts are outside party politics.

Dr. Ambedkar: There are certain judicial posts in this country which are looked upon as political appointments, but that is another matter. Now, the consideration I would like to place before this Committee is this. We are admitting to this Federation some 562 Indian States.

Mr. Jinnah: Are you ?

Dr. Ambedkar: I suppose that is the scheme; at least that is the ideal we have placed before ourselves that all the Native States will come into this Federation. I think there is no dispute on this point, that a great many of the States, which will be part of the Indian Federation, are financially not strong enough to maintain a competent judiciary. I know of a case in the Bombay Presidency—I am citing a case with which I am acquainted. In Bombay there is a small Native State, the administration of which is run by a lady. In that State, so far as I know, there is only one officer. He acts as a Civil Judge; he also acts as a Magistrate; he also acts as a Sessions Judge. From him appeals go to the head of the State, and she is helped by the Diwan who is, so far as I know, a retired revenue official. Most complicated cases come before this tribunal, which is called, so to say, the Privy Council of that State ; and judgements are being given today by a Court so constituted. Now, I do not blame anybody for that. The point is that such a State is so small that it simply has not got sufficient revenue to maintain a competent Court.

Then there is another consideration, namely, that we may, even with respect to British India, go on creating new Provinces so small that they, again, may not be in a position to maintain, financially speaking, a High Court. The case happens even today. The Province of Assam cannot maintain a High Court. It shares a High Court with the Presidency of Bengal. My submission is this—that if we can improve matters in such a way as to help all these Native States which are small and financially weak to maintain a proper judiciary by allowing to utilise these High Courts which are now functioning in

British India for the purpose of administering civil and criminal justice among their subjects, such a plan ought to be welcome. The fact is that, so long as a Provincial High Court is being entirely controlled by a Provincial Government, the States, which have no share in the control of the affairs of the Province, will not care to use the services of the High Court. If, on the other hand, the Provincial High Courts were made a Central subject, where all these States would undoubtedly be represented either directly or indirectly, then there would be more inducement—certainly much less objection on their part—to utilise these High Courts for the purpose of adjudication of civil and criminal disputes among their subjects. The result would be that we would considerably improve the judicial administration in the Native States, which are going to be a part of the future Government of India, without in any sense impairing the efficiency of the Provincial High Courts. On that ground, I suggest that the Provincial High Courts may, for the purposes of administration and also for purposes of finance, be made a Central subject. One of the reasons why the High Court of Calcutta is Central for administration is because it is not a Court exclusively for the Presidency of Bengal. It is a Court which is a joint Court for the Presidency of Bengal and for the Province of Assam. It was for this reason that the Simon Commission recommended that the system should continue and be extended to other Provinces. That is the reason why I think this suggestion ought to be welcome. That is all I have to say on this subject of the Federal Court.

Forty-fourth Sitting—2nd November 1931

Discussion on the Draft Third Report

Dr. Ambedkar : I should like to draw your attention to the last four lines of the paragraph. After stating, in the beginning, the recommendations of the Sub-Committee in paragraph 34 of their Second Report, Your Lordship stated:

" We make no recommendation here relating to the first four of these interests, since the decision on this point is one for the Minorities Subcommittee."

I do not think that Your Lordship means that the Committee is indifferent to the representation of those interests, nor, I think, does the opinion expressed in paragraph 34 of the Second Report mean this. What you mean is that you cannot make any recommendation as to the extent or method of representation. I should therefore be obliged if you would amend the passage by adding, after the word " recommendation ", the words—

" as regards the extent or method of their representations."

Mrs. Subbarayan: You may remember that I spoke at one of our sittings on the possibility of securing some special provision for the representation of

women in the Legislature, and suggested that the consideration of this matter should be deferred until the Minorities Committee published their Report. But, lest the point be overlooked, I should respectfully suggest that some reference to it be made here, and that the following words be added in line 9 of paragraph 28 ; after the word " interests ", insert the words—

" or to the representation of women in the Legislature."

Chairman: I am much obliged—I am sorry that we left it out—and I am also much obliged to Dr. Ambedkar. We will put in both those amendments. That was an oversight.

Mrs. Subbarayan: On a previous occasion, while recognising the valuable work done by many of the nominated members in the past on the Legislatures, I objected to nomination in the new constitution on principle. I feel that I object to it all the more when I find that the two Chambers may have co-equal powers. I quite agree with the Report that the services of persons of the elder statesman type are most valuable; but I am also convinced that the system of nomination is unwise and undemocratic, and, therefore, that it will be better if the services of such persons too are secured through some system of election. If there is a system of nomination, I cannot help thinking that the whole object of this clause may be frustrated, and that the Ministry may only think of strengthening its own party in the Upper Chamber. Apart from this general objection, I would ask that, in paragraph 32, lines 7, 10, 19 and 22, the word "persons" be substituted for the word " men ".

Chairman: I quite agree, Mrs. Subbarayan. In England we actually held, until about five years ago, that a woman was not a " person ".

Mrs. Subbarayan: Perhaps they meant that she was something better !

Mr. Zafrullah Khan: In our General Clauses Act, it says that, whenever " man " is used, it includes " woman ".

Mr. Iyengar: I desire to associate myself with what my friend, Mrs. Subbarayan, has said as regards nominated members. I also agree that it is very useful to have these elder statesmen in the Upper Chamber; but surely, if these elder statesmen are really wanted by the country, it would certainly be possible for them to come in by some constituency or other. I think the principle of nomination is vicious and we should get rid of it altogether.

Dr. Ambedkar: I should like to associate myself with what has fallen from Mrs. Subbarayan.

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Chairman: We will say " should be adopted as a model for candidates for the Upper Chamber, taking into account any special provisions that may be required for women ".

Dr. Ambedkar: I find considerable difficulty in subscribing to this part of

paragraph 34—the Council of State qualifications taken as a model. It seems to me that it will entirely block the representation of the Depressed Classes.

Chairman: We must not do that.

Dr. Ambedkar: Liberty should also be given to the Franchise Committee to take this into consideration in framing their model rules.

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Dr. Ambedkar: I should like to say that the Committee should also consider the necessity of endowing the Central Government with powers to finance itself in emergency matters directly and independently, rather than be dependent upon contributions from the Provinces and States.

Lord Peel: All these points, of course, were considered from every point of view, and this was the result of a compromise between the different views. That is really all I can say on it at the present moment, I think.

Mr. Joshi: Lord Chancellor, I agree with Dr. Ambedkar's view.

Dr. Ambedkar: Lord Chancellor, I should also like to say that the fact-finding Committee, in apportioning the burden of the Federal Legislature between British Provinces and Indian States, ought to consider the principle of equity of contribution as between the two.

Chairman: Lord Peel no doubt will consider that. I wish you would mention that again, if you would not mind, when we come to the full Conference.

Forty-fifth Sitting—4th November 1931

Chairman: Now, that is the Report on which I want your comments, Will you kindly go back now to paragraph 52 ?

Dr. Ambedkar: May I just say this with regard to paragraph 52? Your Lordship will remember that, while we were discussing the jurisdiction of the Federal Court, I raised the point that the Court, besides having the jurisdiction to interpret the constitution and to see that neither the Provincial Governments nor the Federal Government intervene in the sphere of the other, should also have the jurisdiction to deal with matters arising out of the fundamental rights or the minority rights. I think I was supported in that also by Mr. Jayakar, and also, if I am right, by Mr. Sastri. Perhaps a note might be made to that effect in this paragraph.

Chairman: I am obliged to Dr. Ambedkar, but I am happy to be able to reassure him in this way—that when they are in the constitution, they will naturally fall within the domain of the Federal Court's interpretation..

Mr. Jayakar: That is included in the word " constitutional ".

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Chairman: Now paragraph 62.

Dr. Ambedkar: I did not think there was unanimity regarding the location of

the Court at Delhi. I should have liked that this matter should be investigated by some committee.

Mr. Jayakar: I made the suggestion that it should be at a central place somewhere, not Delhi, but some place where the Court could work for the whole of the year, the climate being suitable for working during the whole year.

Mr. Zafrullah Khan: All sorts, of suggestions were made from different quarters, but I do not think that any single place had as much support as Delhi.

Chairman: Now, please, paragraphs 63 and 64.

Forty-sixth Sitting—16th November 1931

Discussion on Future Procedure

Dr. Ambedkar : I should like to know what view Sir Tej Bahadur Sapru has regarding the relationship which should subsist between the Army Member and the Commander-in-Chief. Would the Commander-in-Chief be merely the head of the department under the control and supervision of the Minister or Member or would you give him certain powers with which the Army Member would not have the right to interfere ?

Sir Tej Bahadur Sapru: I am not prepared to go into details, but as I conceive the position of the Army Member he will deal with general questions of policy, financial and otherwise, but he will have no power to deal with technical or administrative matters relating to the Army and, if he is wise, even if he has such power he will not exercise it. I have no personal knowledge of the matter, but I appeal to my British colleagues here to say what exactly the position in England is with regard to the Army. The Secretary of State for War has probably no power to interfere with the internal discipline of the Army but deals with big questions of policy. I cannot forget one period of your Army history, the period of the Duke of Cambridge.

10

IN THE MINORITIES COMMITTEE

Seventh Sitting—28th September 1931

Chairman: There are other minorities which are represented. If we adjourn, they will have to see if they can get their point of view made ready for expression. An adjournment would be useful only if those representatives of the other sections would use the adjournment period for the purpose of preparing something, and then handing in to me, in preparation for the next meeting, a list of names of those who would like to take part in the discussions. I am rather at a disadvantage this morning because nobody has

handed in his name. If you would like it, I could conduct this Conference in such a way that you would break up in the course of two or three meetings. That is exactly what I am determined shall not happen. In order to be able to guide the discussion in a friendly and in a profitable way I should like to know who is going to speak, and what points of view are going to be put forward, so that the speakers might be called upon at the most helpful moment. The idea is not to suppress speeches at all, but, in order that the discussion shall proceed in such a way as to produce the maximum amount of good. If you do adjourn now, please remember that the others of you are coming to a bargain with me that you too will use this time for the purpose of making preparations for a statement which will be brief, to the point, and comprehensive, and, I beg of you, helpful. On that understanding, and with that bargain, will you adjourn ?

Dr. Ambedkar: I would like to say one word before we adjourn. As regards your suggestion — that while these negotiations are going on members of the other minority communities should prepare their case -I should like to say that, so far as the Depressed Classes are concerned, we have already presented our case to the Minorities Sub-Committee last time.

The only thing which remains for me to do is to put before this Committee a short statement suggesting the quantum of representation which we want in the different Legislatures. Beyond that I do not think I am called upon to do anything; but the point I am anxious to make at the very outset is this. I have heard with great pleasure that further negotiations are going to take place for the settlement of the communal issue. But I would like to make this matter absolutely plain at the very start. I do not wish that any doubt should be left on this question at all. Those who are negotiating ought to understand that they are not plenipotentiaries at all; that whatever may be the representative character of Mr. Gandhi or the Congress people, they certainly are not in a position to bind us—certainly not. I say that most emphatically in this meeting.

Another thing I want to say is this—that the claims put forward by the various minorities are claims put forward by themselves irrespective of the consideration as to whether the claims that they have put forward are consistent with the claims of the other minorities. Consequently, any negotiations which take place between one minority on the one hand and the Congress or any other people for that matter on the other hand, without taking into consideration the claims which have been put forward by the other minorities can have no chance of success as far as I am concerned. I want to make that absolutely plain. I have no quarrel with the question whether any particular community should get weightage or not, but I do want to say most emphatically that whoever claims weightage and whoever is willing to give

that weightage he must not give it— he cannot give it—out of my share. I want to make that absolutely plain.

Sir Henry Gidney: I want to say a very few words, I wholeheartedly associate myself with my friend Dr. Ambedkar. Representing a small community as I do, I fail to see where I come in this transaction. If the Congress on the one hand makes a settlement with the Mohammedans on the other hand, where do the other minority communities come in ? You; ask us to settle our differences amongst ourselves and to present them individually. We have already done so. At the last Conference I submitted the minimum demands of the small community I represent. I want to make it abundantly clear that in making this new map of India all minorities should have the right of putting their own little spot on it and I do not see how we can if the settlement here is going to be entirely **a Hindu-Muslim pact.**

Chairman: Do not let there be any misunderstanding. This is the body before which the final settlement must come, and the suggestion is merely that if there are minorities or communities that hitherto have been in conflict with each other, they should use a short time for the purpose of trying to overcome their difficulties. That will be a step, and a very important and essential step, towards a general agreement, but the agreement is going to be a general one.

Dr. Ambedkar: I have made my position absolutely clear.

Chairman: Dr. Ambedkar's position has been made absolutely clear; in his usual splendid way he has left no doubt at all about it, and that will come up when this body resumes its discussions. What I would like to do is to get you all to feel that we are co-operating together for a general settlement; not for a settlement between any two or any three, but a complete settlement.

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Dr. Ambedkar : I should like to suggest whether it would not be possible for you to appoint a small Committee consisting of members drawn from the various minority communities, along with the Congress representatives, to sit in an informal manner and discuss this problem during the period of the adjournment.

Chairman: I was going to make this suggestion. Do not ask me to appoint that Committee ; do it yourselves. I have invited you to get together. Could not you manage to hold an informal meeting amongst yourselves and talk the matter over, and then when you speak here you will speak with some sort of knowledge of the effect of what you are saying on others ? Could we leave it in that way ?

Dr. Ambedkar: As you like.

Chairman: That would be far better.

Eighth Sitting—1st October 1931

Mr. Gandhi: Prime Minister, after consultation with His Highness The Aga Khan and other Muslim friends last night, we came to the conclusion that the purpose for which we meet here would be better served if a week's adjournment was asked for. I have not had the opportunity of consulting my other colleagues, but I have no doubt that they will also agree in the proposal I am making. I have been having with my Muslim friends anxious conversations, and I had the pleasure of meeting some other friends also last afternoon belonging to the different groups or classes. We were not able to make much headway, but they too felt that the time at our disposal was too short even for exchanging views. I may say for myself that beyond this week's adjournment I would not press for any further adjournment, but I would report to this Committee what has been the result of the endeavour I shall be making during the week.

I let out no secret when I inform this Committee that His Highness and the other friends with whom I was closeted last night laid upon my shoulders the burden of calling representatives of the different groups together and holding consultations with a view to arriving at some final settlement. If this proposal of mine commends itself to you, Prime Minister, and to the rest of the members of this Committee, I shall be glad. I know that His Highness will second this proposal, and let us all hope that at the end of the week it will be possible to report some sort of a settlement.

When I express this hope I do not wish to convey any impression that, because I express it, there is something that I know, and on which I am building that hope. But I am an irrepressible optimist, and often in my lifetime when the horizon has appeared to be the blackest, some turn has taken place which has given ground for hope. Whatever it may be, so far as human endeavour is possible, all that endeavour will be made. I have no doubt, by many members of this Committee to arrive at a settlement.

With these words I leave my proposal, that we adjourn our proceedings to this day in your hands for consideration.

H. H. The Aga Khan: I have pleasure in seconding the proposal.

Sardar Ujjal Singh: I rise to give my wholehearted support to this proposal, and I share the hope that by this means we may come to some understanding, given goodwill on both sides.

Dr. Ambedkar: I do not wish to create any difficulty in our making every possible attempt to arrive at some solution of the problem with which this Committee has to deal, and if a solution can be arrived at by the means suggested by Mahatma Gandhi, I, for one, will have no objection to that

proposal.

But there is just this one difficulty with which I, as representing the Depressed Classes, am faced. I do not know what sort of committee Mahatma Gandhi proposes to appoint to consider this question during the period of adjournment, but I suppose that the Depressed Classes will be represented on this committee.

Mr. Gandhi: Without doubt.

Dr. Ambedkar : Thank you. But I do not know whether in the position in which I am today, it would be of any use for me or my colleague to work on the proposed committee. And for this reason, Mahatma Gandhi told us on the first day that he spoke in the Federal Structure Committee that as a representative of the Indian National Congress he was not prepared to give political recognition to any community other than the Mohammedans and the Sikhs. He was not prepared to recognise the Anglo-Indians, the Depressed Classes, and the Indian Christians. I do not think that I am doing any violence to etiquette by stating in this Committee that when I had the pleasure of meeting Mahatma Gandhi a week ago and discussing the question of the Depressed Classes with him, and when we, as members of the other minorities, had the chance of talking with him yesterday in his office, he told us in quite plain terms that the attitude that he had taken in the Federal Structure Committee was his full and well considered attitude. What I would like to say is that unless at the outset I know that the Depressed Classes are going to be recognised as a community entitled to political recognition in the future constitution of India, I do not know whether it will serve any purpose for me to join the particular committee that is proposed by Mahatma Gandhi to be constituted to go into this matter. Unless, therefore, I have an assurance that this committee will start with the assumption that all those communities which the Minorities Sub-Committee last year recommended as fit for recognition of India will be included, I do not know that I can wholeheartedly support the proposition for adjournment, or that I can wholeheartedly co-operate with the committee that is going to be nominated. That is all that I wish to make plain now.

Sir Henry Gidney (Anglo-Indians): On behalf of the community which I have the honour to represent, I associate myself entirely with my friend Dr. Ambedkar. I also am in the unfortunate position of having been refused recognition by Mahatma Gandhi as far as a separate community is concerned. I may be wrong, but I am sure that Mahatma Gandhi will correct me if I am. Yesterday, when we met Mahatma Gandhi upon this matter, he impressed us in terms that left no doubt in my mind that as a community he and the Congress were not prepared to recognise us, and that the Lahore

Resolution of the Congress indicated, almost at the behest of the Mahatma, that it was only possible to recognise two communities, the Mohammedans and the Sikhs, and that that was on traditional and historical grounds. Possibly it might be impertinence on my part to claim the same grounds for the recognition of my community. But I do ask the Mahatma to make it abundantly clear here before this meeting, before this committee is appointed, and before you. Sir, ask for an adjournment, that he will include in this committee representatives of those communities which have already received recognition on this committee.

Rao Bahadur Pannir Selvam (Indian Christians): The statement made by Dr. Ambedkar is news to me. I was not aware until now that the Mahatma was not granting us any recognition. If that be so, I submit that our position here will be absolutely unnecessary. Since no recognition as a community in the political future is given to us, I am really unable to see what purpose will be served by our taking part in any committee that might subsequently be formed. I feel that I ought to put forward my case exactly in the same terms as Dr. Ambedkar and Sir Henry Gidney have stated theirs.

Dr. Moonje: I did not attach much importance or so much seriousness to the fact when I read in the papers that only two communities are to be recognised by Mahatma Gandhi in the Minorities Committee. I thought that perhaps it might be a kind of move to facilitate conciliation and understanding, and to smooth over difficulties, but I find from Dr. Ambedkar's speech, and from Sir Henry Gidney's speech, that they have taken the matter most seriously. Therefore, I should like to say, and bring it to the notice of the Committee, that even the Hindus in the Provinces of Punjab and Bengal are minorities, and have, therefore, to look after their own interests also. With this little explanation, I have no objection to the proposal: of adjourning for considering this question.

Sir Muhammad Shafi: I am afraid there is some misapprehension in the minds of some of my friends about the proposal which has been put forward by Mahatma Gandhi. As I understand that proposal, Mahatma Gandhi does not ask for the appointment of a Sub-Committee of this Committee, nor does he ask for the appointment of a committee in the ordinary sense of the term. What is intended is this, that each group constituting the whole of this Committee, including of course the Depressed Classes and the Anglo-Indian community, might select a few representatives, one or two or three from each group, who should meet together and consider, after an exchange of ideas, whether some settlement satisfactory to all cannot be arrived at and thus lighten the burden which rests upon the shoulders of the Minorities Committee as a whole. If that consummation can be arrived at, I am sure

every sincere well-wisher of India's peaceful progress ought to be glad to contribute to the bringing about of that consummation. I am afraid the objection made by my friend Dr. Ambedkar is merely the result of a misapprehension as to the nature of the proposal made by Mahatma Gandhi and seconded by His Highness The Aga Khan. If after this explanation which I have ventured to submit, a unanimous decision can be arrived at in favour of the adjournment of this Committee for a week in order to enable us all to meet in a friendly spirit, in a spirit of co-operation, as sincere well-wishers for peaceful progress in our common motherland, I shall be very glad.

Mrs. Naidu: Mr. Prime Minister, as I do not represent either a minority or a special interest I am completely disinterested in the appeal I am going to make to the minorities and special interests not to raise difficulties and not to cross their bridges before they come to them. It is only in fulfilment of the appeal. Sir, which you made to us the other day, which coincide with our own sense of self-respect, with our own sense of duty in settling a domestic matter entirely without outside arbitration or intervention, that I want to make an appeal that we should settle our domestic quarrels, if there are any, and announce to you a reconciliation, if there must be a reconciliation, but at any rate a harmonious result, and I think that is the reason why Mahatma Gandhi has made this motion for an adjournment. I do not think that any single minority, however small, need have any apprehension. Every minority is as much a part of the nation as every majority, and I, for one, pledge myself to follow the exhortation given to me by one of the greatest statesmen in Europe, whose boast is that he built up an independent nation without an army and without money. He said to me two years ago : " Madame, keep your minorities happy; you cannot build a nation without giving a sense of security to your minorities;" and it is because we want to give this sense of security to the minorities and make them feel that they are an integral part of the nation that a majority community, speaking through the mouth of Mahatma Gandhi, and, if I may say so, also a minority community, speaking through the mouth of His Highness The Aga Khan, are making an appeal that we shall not bring our small domestic quarrels before those who are not concerned primarily with them, but that we shall settle them ourselves, with equity, magnanimity and a sense of chivalry which is justice, and a sense of self-respect which does not permit outsiders to know of the differences within our own house.

That is my appeal. Prime Minister, and I hope it will be accepted by all the minorities and majorities present.

Dr. Ambedkar: I should like to make my position further clear. It seems that there has been a certain misunderstanding regarding what I said. It is not that I object to adjournment; it is not that I object to serving on any committee that

might be appointed to consider the question. What I would like to know before I enter upon this committee, if they give me the privilege of serving on it, is: What is the thing that this committee is going to consider ? Is it only going to consider the question of the Mohammedans *vis-a-vis* the Hindus ? Is it going to consider the question of the Mohammedans *vis-a-vis* the Sikhs in the Punjab ? Or is it going to consider the question of the Sikhs *vis-a-vis* the Hindus ? Is it going to consider the question of the Christians, the Anglo-Indians and the Depressed Classes ?

If we understand perfectly well before we start that this committee will not merely concern itself with the question of the Hindus and the Mohammedans, of the Hindus and the Sikhs, but will also take upon itself the responsibility of considering the Depressed Classes, the Anglo-Indians and the Christians, I am perfectly willing to allow this adjournment resolution to be passed without my protest. But I do want to say this, that if I am to be left out in the cold, and if this interval is going to be utilised for the purpose of solving the Hindu-Muslim question and the Hindu-Sikh question, I would press that this committee should at once grapple with the question and consider it, rather than allow both positions to be taken hold of by somebody else.

Mr. Gandhi: Prime Minister and friends, I see that there is some kind of misunderstanding with reference to the scope of the work that some of us have set before ourselves. I fear that Dr. Ambedkar, Colonel Gidney and other friends are unnecessarily nervous about what is going to happen. Who am I to deny political status to any single interest or class or even individual in India ? As a representative of the Congress, I should be unworthy of the trust that has been reposed in me by the Congress if I were guilty of sacrificing a single national interest. I have undoubtedly given expression to my own views on these points. I must confess that I hold to those views also. But there are ways and ways of guaranteeing protection to every single interest. It will be for those of us who will be putting our heads together to try to evolve a scheme. Nobody would be hampered in pressing his *own* views on the members of this very informal conference or meeting. We need not call it a committee. I have no authority to convene any committee or to bring into being a committee. I can only act as a humble messenger of peace, try to get together representatives of different interests and groups, and see whether by being closeted in one room and by heart-to-heart conversation, we may not be able to remove cobwebs of misunderstanding and see our way clear to the goal that lies so hazily before us today.

I do not think, therefore, that anybody need be afraid as to being able to express his opinion or carrying his opinion also. Mine will be there equal to that of everyone of us ; it will carry no greater weight ; I have no authority

behind me to carry my opinion against the opinion of anybody. I have simply given expression to my views in the national interest, and I shall give expression to these views whenever they are opportune. It will be for you, it is for you to reject or accept those opinions. Therefore please disabuse your minds, everyone of us, of the idea that there is going to be any steam-rolling in the Conference and the informal meetings that I have adumbrated. But if you think that this is one way of coming closer together than by sitting stiffly at this table, you will not only carry this adjournment motion, but give your wholehearted co-operation to the proposal that I have made in connection with these informal meetings.

Sir Hubert Carr: Mr. Prime Minister, my community has not been mentioned. It is a very small one ; but I would like to say that we welcome an adjournment or any other means which will assist a solution of this question which we recognise must precede the final consideration of other questions in which we are all vitally interested.

Dr. Datta: May I say I welcome this adjournment ?

Chairman: Then I shall proceed to put it. I put it on the clear understanding, my friends, that the time is not going to be wasted, and that these conferences—as Mr. Gandhi has said, informal conferences, but nevertheless I hope very valuable and fruitful conferences—will take place between now and our next meeting. I hope you will all pledge yourselves to use the time in that way.

Ninth Sitting—8th October 1931

Chairman: When we met last Thursday, by common consent we adjourned for a week in order to enable informal and unofficial consultations to take place, with a view of coming to an agreement. Perhaps our first business is to receive a report from those who conducted the negotiations. May I ask Mr. Gandhi to speak first ?

Mr. Gandhi: Prime Minister and friends, it is with deep sorrow and deeper humiliation that I have to announce utter failure on my part to secure an agreed solution of the communal question through informal conversations among and with the representatives of different groups I apologise to you, Mr. Prime Minister, and the other colleagues for the waste of a precious week. My only consolation lies in the fact that when I accepted the burden of carrying on these talks I knew that there was not much hope of success, and still more in the fact that I am not aware of having spared any effort to reach a solution.

But to say that the conversations have to our utter shame failed is not to say the whole truth. Causes of failure were inherent in the composition of the Indian Delegation. We are almost all not elected representatives of the parties

or groups whom we are presumed to represent; we are here by nomination of the Government. Nor are those whose presence was absolutely necessary for an agreed solution to be found here. Further, you will allow me to say that this was hardly the time to summon the Minorities Committee. It lacks the sense of reality in that we do not know what it is that we are going to get. If we knew in a definite manner that we were going to get the thing we want, we should hesitate fifty times before we threw it away in a sinful wrangle, as it would be if we are told that the getting of it would depend upon the ability of the present Delegation to produce an agreed solution of the communal tangle. The solution can be the crown of the Swaraj constitution, not its foundation—if only because our differences have hardened, if they have not arisen, by reason of the foreign domination. I have not a shadow of a doubt that the iceberg of communal differences will melt under the warmth of the sun of freedom.

I, therefore, venture to suggest that the Minorities Committee be adjourned *sine die* and that the fundamentals of the constitution be hammered into shape as quickly as may be. Meanwhile, the informal work of discovering a true solution of the communal problem will and must continue: only it must not baulk or be allowed to block the progress of constitution-building. Attention must be diverted from it and concentrated on the main part of the structure.

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Lastly, in as much as the only reason for my appearance at these deliberations is that I represent the Indian National Congress, I must clearly set forth its position. In spite of appearances to the contrary, especially in England, the Congress claims to represent the whole nation, and most decidedly the dumb millions, among whom are included the numberless Untouchables, who are more suppressed than depressed, as also in a way the more unfortunate and neglected classes known as Backward Races.

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It seems to have been represented that I am opposed to any representation of the Untouchables on the Legislature. This is a travesty of the truth. What I have said, and what I must repeat, is that I am opposed to their special representation. I am convinced that it can do them no good, and may do much harm; but the Congress is wedded to adult franchise. Therefore millions of them can be placed on the Voters' Roll. It is impossible to conceive that with untouchability fast disappearing, nominees of these voters can be boycotted by the others; but what these people need more than election, to the Legislatures is protection from social and religious persecution. Custom, which is often more powerful than law, has brought them to a degradation of which every thinking Hindu has need to feel

ashamed and to do penance. I should, therefore, have the most drastic legislation rendering criminal all the special persecution to which these fellow-countrymen of mine are subjected by the so-called superior classes. Thank God, the conscience of Hindus has been stirred, and untouchability will soon be a relic of our sinful past.

Dr. Ambedkar: Mr. Prime Minister, last night when we parted at the conclusion of the meeting of the informal Committee we parted although with a sense of failure, at least with one common understanding, and that was that when we met here today none of us should make any speech or any comment that would cause exasperation. I am sorry to see that Mr. Gandhi should have been guilty of a breach of this understanding. Excuse me, I must have the opportunity to speak. He started by giving what were, according to him, the causes of the failure of the informal Committee. Now, I have my own causes which I think were responsible for the failure of the informal Committee to reach an agreement, but I do not propose to discuss them now. What disturbs me after hearing Mr. Gandhi is that instead of confining himself to his proposition, namely, that the Minorities Committee should adjourn *sine die*, he started casting certain reflections upon the representatives of the different communities who are sitting round this table. He said that the Delegates were nominees of the Government, and that they did not represent the views of their respective communities for whom they stood. We cannot deny the allegation that we are nominees of the Government, but, speaking for myself, I have not the slightest doubt that even if the Depressed Classes of India were given the chance of electing their representatives to this Conference, I would, all the same, find a place here. I say therefore that, whether I am a nominee or not, I fully represent the claims of my community. Let no man be under any mistaken impression as regards that.

The Mahatma has been always claiming that the Congress stands for the Depressed Classes, and that the Congress represents the Depressed Classes more than I or my colleague can do. To that claim I can only say that it is one of the many false claims which irresponsible people keep on making, although the persons concerned with regard to those claims have been invariably denying them.

I have here a telegram which I have just received from a place which I have never visited and from a man whom I have never seen from the President of the Depressed Classes Union, Kumaun, Almora, which I believe is in the United Provinces, and which contains the following resolution : " This Meeting declares its no-confidence in the Congress movement which has been carried on in and outside the country, and condemns the methods adopted by the Congress workers." I do not care to read further, but I can say this (and I think

if Mr. Gandhi will examine his position he will find out the truth), that although there may be people in the Congress who may be showing sympathy towards the Depressed Classes, the Depressed Classes are not in the Congress. That is a proposition which I propose to substantiate. I do not wish to enter into these points of controversy. They seem to be somewhat outside the main proposition. The main proposition which Mr. Gandhi has made is that this Committee should be adjourned *sine die*. With regard to that proposition, I entirely agree with the attitude taken up by Sir Muhammad Shafi. I, for one, cannot consent to this proposition. It seems to me that there are only two alternatives—either that this Minorities Committee should go on tackling the problem and trying to arrive at some satisfactory solution, if that is possible, and then, if that is not possible, the British Government should undertake the solution of that problem. We cannot consent to leave this to the arbitration of third parties whose sense of responsibility may not be the same as must be the sense of responsibility of the British Government.

Prime Minister, permit me to make one thing clear. The Depressed Classes are not anxious, they are not clamorous, they have not started any movement for claiming that there shall be an immediate transfer of power from the British to the Indian people. They have their particular grievances against the British people and I think I have voiced them sufficiently to make it clear that we feel those grievances most genuinely. But, to be true to facts, the position is that the Depressed Classes are not clamouring for transfer of political power. Their position, to put it plainly, is that we are not anxious for the transfer of power; but if the British Government is unable to resist the forces that have been set up in the country which do clamour for transference of political power—and we know the Depressed Classes in their present circumstances are not in a position to resist that—then our submission is that if you make that transfer, that transfer will be accompanied by such conditions and by such provisions that the power shall not fall into the hands of a clique, into the hands of an oligarchy, or into the hands of a group of people, whether Mohammedans or Hindus ; but that that solution shall be such that the power shall be shared by all communities in their respective proportions. Taking that view, I do not see how I, for one, can take any serious part in the deliberations of the Federal Structure Committee unless I know where I and my community stand. *Mr. Gandhi:* One word more as to the so-called Untouchables. I can understand the claims advanced by other minorities, but the claims advanced on behalf of the Untouchables, that to me is the "unkindest cut of all ". It means the perpetual bar-sinister. I would not seal the vital interests of the Untouchables even for the sake of winning the freedom of India.

I claim myself in my own person to represent the vast mass of the Untouchables. Here I speak not merely on behalf of the Congress, but I speak on my own behalf, and I claim that I would get, if there was a referendum of the Untouchables, their vote, and that I would top the poll. And I would work from one end of India to the other to tell the Untouchables that separate electorates and separate reservation is not the way to remove this bar-sinister, which is the shame, not of them but of orthodox Hinduism.

Let this Committee and let the whole world know that today there is a body of Hindu reformers who are pledged to remove this blot of untouchability. We do not want on our register and on our census Untouchables classified as separate class. Sikhs may remain as such in perpetuity, so may Mohammedans, so may Europeans. Will Untouchables remain Untouchables in perpetuity ? I would fear rather that Hinduism died than that untouchability lived. Therefore, with all my regard for Dr. Ambedkar, and for his desire to see the Untouchables uplifted, with all my regard for his ability, I must say in all humility that here the great wrong under which he has laboured and perhaps the bitter experiences that he has undergone have for the moment warped his judgement. It hurts me to have to say this, but I would be untrue to the cause of the Untouchables, which is as dear to me as life itself, if I did not say it. I will not bargain away their rights for the kingdom of the whole world. I am speaking with a due sense of responsibility, and I say that it is not a proper claim which is registered by Dr. Ambedkar when he seeks to speak for the whole of the Untouchables of India. It will create a division in Hinduism which I cannot possibly look forward to with any satisfaction whatsoever. I do not mind Untouchables, if they so desire, being converted to Islam or Christianity. I should tolerate that, but I cannot possibly tolerate what is in store for Hinduism if there are two divisions set forth in the villages. Those who speak of the political rights of Untouchables do not know their India, do not know how Indian society is today constructed, and therefore I want to say with all the emphasis that I can command that if I was the only person to resist this thing I would resist it with my life.

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